

MT LEGISLATIVE HISTORY

Chapter 647 1985

Bill (H) 127 S _____

Original bill & hist. ____C

H. Committee on Business & Labor

S. Committee on Business & Industry

Hearing Date(s) JAN 15 ✓C

Hearing Date(s) FEB 02 ✓C

JAN 23 ✓C

MAR 05 ✓C

____C

MAR 28 ✓C

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____C

Date Out _____C

MAR 28 ✓C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

(To be kept current -- post bills when entering being heard or leaving committee.)

Form CS-32

STATUS SHEET

49TH

LEGISLATIVE SESSION

COMMITTEE ON BUSINESS AND LABOR

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
20	1-4	1-8	1-8	1-8					
28	1-4	1-11/1-15	1-15			1-15			
29	1-4	1-8	1-8	1-8					
32	1-4	1-8/1-9	1-9			1-9			
41	1-4	1-9/1-10	1-10	WITHOUT RECOMMENDATION					
43	1-4	1-8/1-15	1-15			1-15			
72	1-4	1-16/1-18	1-18			1-18			
85	1-4	2-13	2-13	2-13					
90	1-4	1-10/1-14/ 2-5			TABLED				
96	1-4	1-16/1-18	1-18	1-18					
referred 96	1-21	1-21	1-21			1-21	(REREFERRED)		
97	1-4		REREFERRED TO JUDICIARY						
107	1-4	1-11/1-15	1-15			1-15			
121	1-7	1-22/1-23 2-22	2-22			2-22			
124	1-9	1-15	1-15	1-15					
127	1-9	1-15/1-23			TABLED				

Use a separate sheet for Senate, House Bills, and Resolutions

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 15, 1985

The meeting of the Business and Labor Committee was called to order by Chairman Bob Pavlovich on January 8, 1985 at 9:00 a.m.

ROLL CALL: All members were present, with the exception of Representative Robert Ellerd, who was excused by the chairman.

HOUSE BILL NO. 127: Hearing commenced on House Bill No. 127. Representative Kerry Keyser, District #74, sponsor of the bill, stated that this bill is a general revision of the laws that regulate private investigators and patrolmen. Changed substantially is the definition of "insurance adjuster" by providing that an adjuster does not investigate "crimes of wrongs", except as provided in the registration requirements for armed guards and investigators. This bill will also remove the exemption for charitable institutions, delete residency requirements, clarify requirements for qualifying agents and resident manager, remove exemptions from registration as an armed guard or investigator and provide qualifications for unarmed private investigators. Representative Keyser distributed to committee members Exhibit 1 which outlines the amendments proposed by the Board of Security Patrolmen and Private Investigators.

Proponent Clayton Bain, Chairman of the Board of Security Patrolmen and Private Investigators, stated that the board is in support of House Bill 127, with their proposed amendments as set out in Exhibit 1.

Proponent Don Valiton of the Montana Association of Private Investigators and Security Operators in Ovando explained that the security business is rapidly growing, with currently over one million people employed in the private security field. These individuals provide a service to the business community by qualified personnel. Mr. Valiton is supportive of the law enforcement industry. He would like to see our law enforcement personnel paid adequately, rather than have them take a second job, in order to exist. The mental and emotional strain was recognized by Mr. Valiton. We need the private investigators and they need us, added Mr. Valiton.

Proponent Robert B. Evans, President of Timberline Investigators in Kalispell and a member of the Montana Association of Private Investigators and Security Operators does support House Bill 127 with the amendments as shown on his Witness Statement. Mr. Evans stated that prior to 1983 there were 450

licenses issued. Under the new law there are only approximately 175 licenses. This represents an approximate decrease of 60%, stressed Mr. Evans.

Proponent Craig Christy of the Legal Investigation Bureau in Billings suggested the committee consider the amendments as shown on his Witness Statement. He is in agreement of deleting casual employment by law enforcement officers due to conflict, public liability and fatigue on the part of officers. Mr. Christy stressed the fact that the law now profices for a 90 day training period and a three year experience provision. An employee cannot receive the three years required experience for licensing in the given 90 day period. A conflict between the statutes and administrative rules is apparent. A built in age discrimination with the 25 year old minimum age requirement, is also apparent. Mr. Christy proposed an amendment that would make clear a distinction between the licensee, a registrant and an employee that would leave employees to the discretion of the hiring license and profice for the three year experience requirement for licensure.

Proponent Joe Maloney, a private investigator from Butte offered his support in deleting the casual employment provision and the proposed amendment for licensing requirements. Mr. Maloney did clear up the fantasies regarding private investigators. An average income of \$14,000.00 per year is earned by a private investigator. Requirements are needed and they should be just and fair, stated Mr. Maloney. The private investigator business is not run the same as the law enforcement business. Private investigators offer a vital service to the business community and more private investigators are needed in the state of Montana, added Mr. Maloney.

Proponent Tom Mangon, a private investigator in Helena stated that casual employment is the most pressing issue in this bill. It is important that secondary employment of law enforcement personnel be regulated in order to maintain the high quality of professionalism, explained Mr. Mangon.

Proponent Chad Smith of the Montana Hospital Association stated that he is not a proponent or opponent to House Bill 127. He does have a concern with the amendment that would delete a non-profit or charitable association from this law.

Proponent Fred Valentin, a licensed private investigator and owner of Security Service Company does support House Bill 127. He feels the profession does need regulation, but they do not need to be regulated outside of their business.

Proponent Greg Stovall representing the Legal Investigation Bureau of Billings is in support of House Bill 127. He feels that anyone doing private investigation work in the state should meet the same requirements. Equal treatment for all

is what Mr. Stovall is striving for.

Opponent Chuck O'Reilly, Sheriff of Lewis and Clark County, stated that it would take the entire legislative session to get through all of the proposed amendments. He suggested that the committee kill House Bill 127 and that the private investigators and security officers get together to create a decent bill for the next session of the legislature. Sheriff O'Reilly explained that the law enforcement industry is presently regulated, so why have another body setting regulations and make the procedure more complicated. An average income of \$16,000.00 per year is earned by a peace officer. It is necessary for most to be employed in a second job in order to pay bills and feed families, added Sheriff O'Reilly.

In closing Representative Keyser questioned Mr. Evans' figures he gave to the committee. He said that there are presently 32 security agencies and 74 private investigators, totalling 106 licenses issued by the board. Sixteen months after this bill took affect there were 30 additional officers and 44 additional investigators, not counting what applications may be pending. There has not been the large decrease, stressed Representative Keyser. If the bill is killed, it will leave the casual employment law as is. It is not the intent to give city or county officers an unfair advantage, stated Representative Keyser. Reasonable regulation is wanted and nobody is trying to over regulate the industry, added Representative Keyser.

Representative Jones questioned Representative Keyser as to where he obtained his figures regarding the number of licenses issued. Representative Keyser did receive these figures from the department. Representative Jones commented that he also had figures, but they are different than those presented by Representative Keyser.

Representative Wallin asked Representative Keyser if he would be willing to meet with the different proponents and opponent to work out the differences. Representative Keyser answered that he would and that the committee may want to refer House Bill 127 to a subcommittee.

Representative Bachini questioned Mr. Bain as to how private investigators receive their fire arm training. Mr. Bain explained that they are instructed by certified individuals. Representative Bachini then asked if a private investigator has ever tried to be admitted to the law enforcement academy and if it would be beneficial if so done. Mr. Bain replied that only law enforcement officers are allowed into the academy and that it would be an excellent idea, to allow private investigators into the academy. However, the academy is not of sufficient size and the range is located outdoors,

thus cannot be used during the winter months.

Representative Glaser asked Greg Stovall if he has been able to get licensed by the board. Mr. Stovall has not been issued a license because of the three year experience requirement. Representative Glaser then asked if Mr. Stovall did in fact want this as a career. Mr. Stovall replied, "yes".

Representative Howe asked Mr. Stovall what is needed to become certified. You must be a police officer, a private investigator or a retired police officer, replied Mr. Stovall.

Representative Driscoll asked Mr. Bain if an off duty police officer could act as a "bouncer" at a public dance without being licensed. Mr. Bain explained that he could not, if the casual employment section is deleted from House Bill 127.

Chairman Pavlovich did appoint a subcommittee consisting of Representative Bachini, Chairman and Representatives Kadas, Jones and Glaser to serve on the subcommittee. Mr. Bain and Representative Keyser will also work with the subcommittee.

There being no further discussion, all were excused by the chairman and the hearing on House Bill No. 127 was closed.

HOUSE BILL NO. 124: Hearing commenced on House Bill No. 124. Representative Kelly Addy, District #94, sponsor of the bill, stated the purpose of this bill is to amend one section of the law assuring collective bargaining rights of employees of the state of Montana or any of its political subdivision or school districts. The bill broadens the section of the law that now requires a labor organization to provide certain rights and safeguards for its members to qualify for certification by requiring the same rights and safeguards be a qualification for "recognition" of the labor organization. This bill gives the Board of Personnel Appeals the jurisdiction to decide any dispute about any of the rights and safeguards necessary for certification or recognition. A recent case regarding the above was before Judge Bennett in the Montana Supreme Court.

Proponent Bob Jensen with the Board of Personnel Appeals feels that it may be unnecessary for the amendments. He added that employees in recognized units may feel that they must petition the board in order to conduct an election. Employees in recognized units do utilize the collective bargaining act.

Proponent Nancy Walter of the Montana Education Association

DAILY ROLL CALL
BUSINESS AND LABOR COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Jan. 15, 1985

NAME	PRESENT	ABSENT	EXCUSED
Bob Pavlovich	✓		
Les Kitselman	✓		
Bob Bachini	✓		
Ray Brandewie	✓		
Jan Brown	✓		
Jerry Driscoll	✓		
Robert Ellerd			✓
William Glaser	✓		
Stella Jean Hansen	✓		
Marjorie Hart	✓		
Ramona Howe	✓		
Tom Jones	✓		
Mike Kadas	✓		
Vernon Keller	✓		
Lloyd McCormich	✓		
Jerry Nisbet	✓		
James Schultz	✓		
Bruce Simon	✓		
Fred Thomas	✓		
Norm Wallin	✓		

TO: Chairman and members of the House Business and Labor
Committee

Amendments to House Bill 127

On Page 1, line 23 after "signals." delete "A person whose sole function is to maintain or repair a security alarm system is not included within the meaning of this definition."

On Page 6, line 19 after "is" insert "guarding".

On Page, 9 starting at line 8, delete "(4) proprietary security organizations are exempt from the provisions of this section."

On Page 10, line 18 after "business;" insert "or".

On Page 15, starting at line 2, place a period after "board". Delete "and must demonstrate proficiency by successfully passing a written examination." After "board" insert "Applicants for identification cards as unarmed investigators must demonstrate their proficiency by successfully passing a written examination."

Amend 37-60-202 Rulemaking power to add subsection (12) to read as follows:

(12) to provide for the issuance of probationary and temporary licenses for contract security companies and private investigators.

Amend 37-60-406 Peace Officers Casual Employment to read as follows:

37-60-406 Peace Officer Exemptions. (1) Peace officers, as defined in 46-1-201, or reserve officers, as defined in 46-1-201, are exempt from the provisions of this act under the following conditions:

- (a) they do not advertise or solicit their services;
 - (b) the chief administrative officer of their department approves the off-duty employment;
 - (c) the officers are performing security guard functions for another governmental agency;
 - (d) the officers are providing security of in-custody inmates held elsewhere than at a custodial institution or jail;
 - (e) the officers provide security when private security companies are unwilling or unavailable to provide the service;
- (2). Law enforcement agencies or organizations and peace officers contracting to provide security, other than the above exemptions, must be licensed by the board as a contract security company.

(3) Peace officers employed as armed private security guards other than the above exemptions, must be registered by the board.

(4) Peace officers are exempt from the firearms requirement if they have qualified with their firearm within the past 12 months.

Submitted by .

Clayton Bain

Clayton Bain, Chairman
Board of Private Security Patrolmen
and Private Investigators



Exhibit 2
January 15, 1985
House Bill 127
Submitted by: Greg Stoval

NATIONAL COUNCIL OF INVESTIGATION & SECURITY SERVICES, Inc.
1133 Fifteenth Street, N.W. • Suite 620 • Washington, D.C. 20005 • (202) 293-5913

Please Reply to:

Memo to NCISS Memberships
From Brian R. Cassidy
Executive Director

JRC

The enclosed two resolutions were passed by the International Association of Chiefs of Police Private Security Committee at Salt Lake City during the annual conference. They also passed favorably through the resolution committee and was voted on and passed by the full membership.

COOPERATION WITH PRIVATE SECURITY

WHEREAS, Law enforcement agencies have long maintained their need for private sector cooperation; and

WHEREAS, The success of citizen involvement in crime prevention already shows the importance of private participation in community crime control; and

WHEREAS, The field of private security with its more than one million persons contributed daily to crime prevention and reduction; now, therefore, be it

RESOLVED, That the International Association of Chiefs of Police recommends that all law enforcement agencies:

- o Develop cooperative programs with private security for crime control.
- o Increase their knowledge of private security resources.
- o Assist private sector efforts to control economic crimes against business and other organizations.

SECONDARY EMPLOYMENT IN PRIVATE SECURITY 1984

WHEREAS, The demand for uniformed private security officers has increased significantly in recent years and will continue to increase in the future; and

WHEREAS, Many law enforcement officers are engaged in secondary employment as private security officers which frequently entails the wearing of their departmental uniform, sidearm and badge of office and the exercise of police authority; and

END

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Severna Park, Maryland 21146
(301) 647-4202

Directors listed on reverse side

WHEREAS, Such secondary employment raises questions regarding the authority of law enforcement officers while so employed, the increased potential for civil liability, the use of departmental uniforms and equipment, competition with private security companies and potential conflicts of interest; and

WHEREAS, Unregulated secondary employment in private security may contribute to increased fatigue and job-related stress; now, therefore, be it

RESOLVED, That the International Association of Chiefs of Police encourages all chief law enforcement officers to establish policies and procedures regulating secondary employment for sworn personnel in private security to maintain the high quality of professionalism in law enforcement.

Police outnumbered by security guards

Los Angeles Times

WASHINGTON — A Department of Justice unit reported Sunday that private security forces now command substantially more manpower and money than local, state and federal law enforcement agencies combined and recommended study of ways to coordinate their operations.

"In these times of stringent state and local constraints, we must ask law enforcement agencies to make more effective and efficient use of all available means. Cooperative programs with private security could provide a way to do more with fewer tax dollars," said James K. Stewart, director of the National Institute of Justice, a Department of Justice

agency, as he released a research bulletin that described the growing role of private security.

The bulletin summarized a 30-month, \$255,000 study conducted for the Institute by Hallcrest Systems Inc., a McLean, Va., research and consulting company that specializes in criminal justice systems.

The summary said the private security industry, as of 1982, operated on a \$21.7 billion budget and employed about 1.1 million people, of whom 449,000 worked on "proprietary" security concerned with internal operations of individual enterprises, while the others manned contractual services, such as guard units, investiga-

(More on Security, Page 4A)

Security

From Page One

tions and alarm services.

It estimated that federal, state and local law enforcement operated in 1979 with 580,000 employees and cost \$13.8 billion. The report foresaw continued growth in private security operations.

Private security operations have increased fastest in the past five to seven years as "growing numbers of Americans undertook self-help measures against crime, increasing the use of locks, lighting, guns, burglar alarms, citizen patrols and security guards," the bulletin reported.

By the bulletin's estimate, economic crime — "ordinary" crimes against property, such as burglary, larceny and robbery, together with white-collar crimes, mostly fraud and embezzlement — together cost

business \$67 billion in 1980.

However, while private security managers generally report "ordinary" crime to law enforcement agencies, it said, they tend not to report incidents of employee theft, insurance fraud, industrial espionage, commercial bribery and computer-related crimes.

The bulletin said the Hallcrest study found there was only "limited interaction and cooperation thus far" between public police and private security forces and reported that "the quality of security personnel is a major concern to the police," who advocate state regulation and licensing of security forces.

William C. Cunningham, a Hallcrest spokesman, said 37 states have some form of regulation governing private security operations, but fewer than half regulate guard forces. California has a licensing system and enforces regulations affecting armed guards who make up about 10 percent of security forces nationwide, Cunningham said.

About 150,000 off-duty policemen authorized to carry weapons moonlight regularly as security guards, according to the bulletin. It said some critics view them as "hired guns" recruited to back up civilian guards who may have trouble obtaining firearms licenses.

Private organizations handle dishonesty among their own personnel through internal procedures almost twice as often as they report the crimes to prosecutors, the bulletin said. Little is known of the workings of the unofficial "private justice" system, it said.

The survey found that private-sector administrators resort to "private justice" for these reasons: disagreement with the policies prosecutors follow in filing charges; impatience with administrative delays in prosecution; a desire to avoid courtroom rules of discovery "that might reveal more about their organizations than they want known," and "a perception that courts are unsympathetic with business losses."

Security guards complain about rules

By TOM COOK
IR State Bureau

New rules to protect the public from irresponsible private security firms and investigators probably will drive many legitimate security companies in the state out of business, private investigator Bob Evans said in Helena Wednesday.

"It will certainly increase the costs of consumers and businesses buying those services from us," according to Evans, who is vice president of the Montana Association of Private Investigators and Security Operations.

Evans said the new rules and licensing requirements will mean at least a 25 percent increase in the price security firms charge for their services.

"I'm concerned that some of the Main Street businesses won't be able to pay it," he said.

The Board of Private Security Patrolmen and Investigators gave final approval Wednesday to regulations that among other things will require for the first time that security firms carry insurance against wrongful injury and ensure that their personnel take state-approved weapons courses.

Clayton Bain of Helena, chairman of the board, said he is sympathetic with some of the concerns expressed by security firms.

However, he said the new rules that will go into effect in April are necessary to meet the legislative intent of a bill passed last session to tighten state control of the security industry.

Bob Cuthill, head of Mining City Merchant Police of Butte, said legitimate security firms don't object to regulations to protect the public from improperly trained security personnel, particularly those that carry guns.

"These rules will keep the junk security operators out," Cuthill said. "The guy who is working a couple hours here and there and not doing anything to really protect anybody."

But Evans said the Legislature and the board went too far in "trying to keep the fly-by-night guys out."

(More on SECURITY, page 2B)

Security

Continued from Page 1B

Not only will license fees for security firms increase from about \$10 a year to \$75 under the new rules, Evans said, but for the first time each guard will be required to have a \$25 license if he is unarmed and a \$75 license if he carries a gun.

Firms that in the past have been able to determine their own insurance needs also will be required to carry coverage up to \$30,000 for bodily or personal injury and \$100,000 for property damage.

"That will up our costs from \$900 to \$1,000 a year per man we employ just for the insurance," Evans said.

Bain said the Legislature was "very much in favor" of strict insurance requirements.

"I don't know how you could get anything less than that level that would adequately protect the public," he said.

In addition those ob-

vious costs, Evans said security firms will also have to pass on the cost of annual state-approved weapons training requirements and other expenses to their clients.

"This will drive the small security firms out of business," he said. "There's only so much a merchant can pay."

Bain said the board would review the fee structure next year to see if it can be reduced, but that the Legislature mandated that the cost of the program be

borne by those receiving licenses.

However, Isabelle Pistelak, administrator of the state Business and Professional Licensing Division, told the board Wednesday that the fees it approved may not be sufficient to keep the board afloat the rest of this year.

Bain said "it's a numbers game," but that he is hopeful that the cash flow will be sufficient.

Evans said he is concerned that fewer people than the board anticipates will seek licenses because of the cost. "It's a Catch 22.

Fewer people will get licensed because of the high cost so the fee will have to go even higher," he said.

Because the board has no money to investigate or enforce compliance with the new rules, Evans said

legitimate operators also will have to absorb the time and cost of taking unlicensed operators before the board for punishment.

"We have no choice but to try and live with these rules," he said. "But there are some real problems."

Evans said the board has cooperated in meeting many of his industry's concerns.

"I have no quarrel with the board," he said. "If this doesn't work, maybe we can come back to them and pressure them to go back to the Legislature with us."

INDEPENDENT RECORD

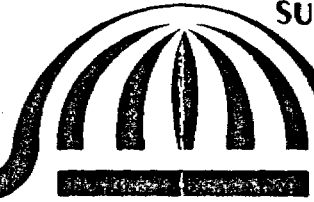
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SUNDAY

August 12,
1984
Helena, Mont
Vol. 41 No. 265



BN, BPA among those 'renting' deputies

By TOM PALMER
IR Staff Writer

The Lewis and Clark County Sheriff's Department is in the business of providing private security protection, which has the county commissioners shaking their heads and at least one state licensed private security operator crying foul.

Prompted by an IR investigation, Commissioner Bob Decker said Friday the commissioners have requested that Sheriff Chuck O'Reilly

prepare a full financial accounting and list of contracts concerning the Sheriff's Reserves' security operations.

"To me, if it's not a direct conflict of interest, then it leaves the door open for such charges," said one high-ranking Lewis and Clark County official who asked for anonymity.

The issue raises nagging questions about the propriety of deputies — and even the sheriff himself — serving in the employ of such organizations as Burlington Northern and the Bonneville Power Administration.

The deputies have full arrest powers, carry guns and wear their uniforms while "moonlighting" as private guards.

In one recent contract, the reserve deputies were paid \$85,000 by the BPA, with Sheriff Chuck O'Reilly himself pulling some paid shifts.

Larry Lytle, owner and operator of the Helena-based Security Service Inc., said the local private security operators know "that our biggest competition is local law enforcement and we have to deal with it."

All of which leaves the hard-nosed

O'Reilly unswayed. "That's too bad," O'Reilly said last month when the IR began its investigation into the Sheriff Department's private security contracts. "We were here before they were and the law allows it."

State law does indeed allow Montana "peace and reserve officers" to occasionally moonlight as unlicensed private security patrolmen. But the law explicitly forbids law enforcement agencies or individuals from advertising their off-duty services and from soliciting employment.

Lewis and Clark County, however, is advertising its "security guard and patrol service" on page 165 of the Helena Yellow pages.

O'Reilly has adamantly denied any knowledge of the Yellow Pages listing, which was provided by the Yellow Pages people free of charge on someone's request. O'Reilly says he didn't request it, nor does he know who did.

Brinton B. Markle, the Department of Commerce consumer affairs attorney, said the ad is not what the Department of Commerce's

watchdog Board of Private Security Patrolmen and Investigators would want, and O'Reilly said the ad "definitely won't be there again. I have no idea how it got there," he said.

For the most part, O'Reilly said he activates the Sheriff's Reserves — a mixed force of 20 trained volunteers and full-fledged deputy sheriffs — for emergencies and special events — like the Last Chance Stampede and the Governor's Cup Marathon —

(More on MOONLIGHTING, 10A)

Moonlighting

Continued from Page 1A

that call for crowd control expertise.

"The only time my reserves work are at special functions and on occasions that I allow them to work security," O'Reilly said. "If there is a conflict, it lies in the fact that there are people who think we're taking work from them and we're not. It makes for a good story to say that the county is stealing from private industry, but it's not the case."

However, the IR has learned that the Sheriff's Reserves have contracted with Burlington Northern and the Forest Service for ongoing work unrelated to any "special event."

O'Reilly said his reserves are paid \$55 per man per shift and estimated that each man is paid \$300 annually from private security contracts, while the entire reserve force volunteers \$93,000 worth of time to the county yearly.

According to O'Reilly, the county is often requested to provide security work by individuals, groups or corporations who are interested in having a security force with full arrest power. "When I activate the reserves, there is no difference between a full-time peace officer and a reserve officer," he said.

In 1982-83, the Lewis and Clark Sheriff's Reserves contracted with the Bonneville Power Administration for a long-term 24-hour security patrol of the BPA's equipment and supplies that were stored near the Custer Avenue and Montana Avenue intersection.

That 18-month contract is the one that landed \$85,000 for the Sheriff's Reserve coffers. The money was delivered, in total, to the sheriff and the Sheriff's Reserve in the form of wages.

Bob Windus of the BPA said by phone from his Portland office that the BPA traditionally contracts with local law enforcement for "large movable sites" because of law enforcement's experience, expertise and arrest power.

But he admitted the the Helena site was neither large nor moveable and the BPA could have used a private security firm.

"We went to the county and asked for assistance as a federal agency," Windus said. "We didn't have time for a long procurement process. It's always conceivable that we could have used a private firm."

O'Reilly said he asked the BPA to use a private firm but the BPA told him it "had to have law enforcement."

And there the clash of the conflict of interest controversy lies. If county deputy sheriffs are being employed by private interest groups to do security work, are their loyalties and liabilities with the county or the company?

In the opinion of Montana Attorney General Mike Greeley, "As long as the activity is being supervised by law enforcement, then the method of payment is immaterial."

Commissioner Decker, however, said he feels uncomfortable with the situation. "I feel more uncomfortable just from my own ignorance, we just don't know enough about it. We don't have a final position, but we think it's a story too."

As far as arrest liabilities are concerned, O'Reilly said he could prohibit a reserve officer working for a private firm from making arrests. If a potential arrest situation arose, O'Reilly said he could tell his reserves to call the local law enforcement agency.

He also said he might allow his reserves to work security patrols of malls or other public places.

"Personally speaking," he said, "I still don't see anything wrong with it legally or morally. I'm not saying I would allow it, but just where are you going to draw the line? It's not black and white, it's a gray area and I'm not sure anyone can define it."

Helena Police Chief Bill Ware has authority over the Helena Police Protective Association, a quasi-

security force comprised of moonlighting city police officers who work Carroll College athletic events, Civic Center concerts and school dances.

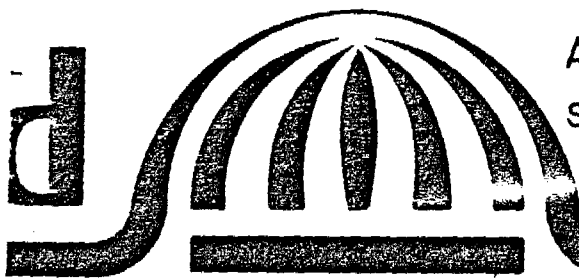
Although Ware said he would look at potential security contracts on a case-by-case basis, he indicated that he was not as ready to jump into the private security business as O'Reilly.

"I think the question arises: Are they making arrests as a city police officer or as an employee of a private business?" Ware said. "I think it's a pretty fine line. I would discourage that kind of outside

employment."

Margaret "Mike" Archibald, who screens potential private security licensees for the Department of Commerce, said the controversy is not limited to Lewis and Clark County. "Private security is upset because businesses are hiring law enforcement to do the jobs that they can do," she said. "I really feel that they have a logical complaint."

But O'Reilly does not. "I don't think any special-interest group should have a corner on anything," he said. "It's legal, it's ethical and it's a benefit to the citizens of this county!"



**WEDNESDAY
AFTERNOON**

September 12, 1984
Helena, Montana
Vol. 41 No. 295

State board eyes sheriff P. I. setup

By TOM PALMER
IR Staff Writer

Montana's watchdog Board of Private Security Patrolmen and Investigators announced Tuesday that it will seek an injunction against the Lewis and Clark County Sheriff's Reserves to bring its alleged unlicensed private security service to "a screeching halt."

The Sheriff's Reserves, a non-profit corporation comprised of trained community volunteers who purchase their own uniforms and equipment and act as part-time deputies, has entered several private security contracts under the auspices of the Sheriff's Department.

Payment for the security work is run through a private bank account, separate from Lewis and Clark County's carefully audited general fund.

Department of Commerce Consumer Affairs Attorney Brinton B. Markle acknowledged that state law permits local law enforcement agencies to contract for some unexpected or "casual" security work. But he in-

dicated that payment for such security work is expected to be delivered through local government, not a private corporation with a private account.

The most lucrative contract appears to have been struck with the Bonneville Power Administration nearly two years ago. That 18-month contract landed \$85,000 for the Sheriff's Reserve coffers.

According to the informal testimony of Gary Dupois, a former Lewis and Clark County deputy, the BPA money was delivered to the Sheriff's Reserve in the form of wages, with O'Reilly and some full-fledged deputies also pulling shifts and being paid BPA money through the Sheriff's Reserve bank account. Dupois said no county equipment was used.

The contract has, among other things, raised the question whether officers who have arrest powers and who appear to be public servants should be working for private corporations.

(More on RESERVE, 8A)

Reserve

Continued from Page A

Among recent contractors are the Last Chance Horse Racing Association and Capital Ford. Earlier reports that the Reserve had also contracted with Burlington Northern were in error.

"If this money did not come from the General Fund of Lewis and Clark County, then you have an organization trying to work both ends," Markel said.

The Sheriff's Department, for instance, does routine security checks of Forest Service campgrounds but that contract is run through the general fund.

According to Markel, the Board of Private Security Patrolmen and Investigators will seek its injunction this week and begin an investigation into the burning issue of whether or not the Sheriff's Reserves should be licensed as private security patrolmen.

Although Montana law demands that security patrolmen be both

licensed and insured, the fledgling board feels the vast majority of the state's private security companies are dodging the law and has ordered a crackdown.

A first time fee for a single armed private security patrolman could cost a security company \$195. According to Kalispell security operators Bob Evans and Don Hansen, insurance for just three employees runs \$2,975 per year.

The Sheriff's Reserves, which might be exempt under the law, are not carrying that financial burden and some consider it to be unfair competition.

"If we can get them licensed and have them insured, then that's half the battle," Fred Valiton, co-owner of the Helena based Security Services Inc., told the board.

The injunction, which will be filed in District Court, is intended to assist the board's investigation. "The only reason I'm seeking the injunction first is that it will give me the

ability to exercise my rights of discovery under civil procedure," Markle said adding that he intends to subpoena O'Reilly, the county commissioners, and members of the Sheriff's Reserves. "I'll subpoena anyone I can, including people I find are their clients and people who have contracted with them casually or otherwise."

Board member Al Murphy also moved to have Markle write letters to the Attorney General, the Solicitor General and the Lewis and Clark County Attorney. "I want them reminded that if an agency of the government is going to contract for private security in a state where there is a licensing procedure they must insure that the successful bidders comply," he said.

Murphy said the board has no power to limit the scope of any local law enforcement operation, reserve or otherwise. "But we can, by God, make them be licensed," he said.

O'Reilly could not be reached for comment.

Board seeking to control police 'moonlighting'

Missoulian State Bureau

HELENA — The state Board of Private Security Patrolmen and Investigators will ask the 1985 Legislature to make it tougher for law enforcement officers to moonlight in the private security business.

The board, created two years ago to regulate the private security industry, has received numerous complaints from security firms about law officers taking jobs away from the private sector. Board Chairman Clayton Bair said Thursday.

Under present law, law officers are able to engage in off-duty security work so long as it is not under a permanent contract or done on more than "a casual basis."

"Because of the casual employment section of the law, we have been unable to do much about it," he said. "The board will ask the Legislature to rescind that requirement."

Defining casual employment has proved very difficult, Bair said, and officers have been able to avoid the new licensing and other requirements that apply to private firms.

The board is proposing that law officers continue to be allowed to work for other government entities to provide security services or to take temporary jobs if a private firm isn't available to perform them.

"Otherwise they will have to be licensed," he said.

Bob Evans, head of Timberline Investigations in Kalispell, said his industry has been concerned that the board has gone too far in some cases in the name of protecting public safety.

"We needed some controls, there's no question," he said. "Our biggest complaint has primarily been to get them to force the people, who should be licensed and aren't, to get a license."

The security industry was caught off guard by the 1983 law and isn't organized to lobby to protect its interests, he said.

"As more people have found out about this, we are getting a better idea of settling it up," he said.

A political closet was evident among several security industry spokesmen were able to reach agreement with the board on minimum requirements for training for personnel in firearms use.

The board also elected Bair to

Movin' Along Tunes at a Savin' Price!



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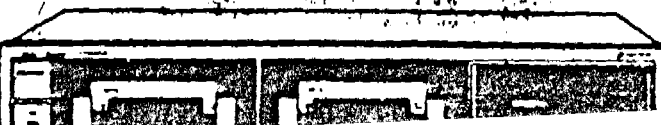
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DECK



Sides cooperate in dispute over security service

By TOM PALMER
LE Staff Writer

The injunction sought by Montana's watchdog Board of Private Security Patrolmen and Investigators against the Lewis and Clark County Sheriff's Reserves alleged private security service has been put on hold.

Department of Commerce Consumer Affairs Attorney Brinton B. Markle said today that if the spirit of cooperation between the board and Lewis and Clark County Attorney Mike McGrath continues there will be no need for an injunction.

"It looks like I'm going to see some of the records," Markle said. "So far, we're cooperating at this point and I would expect that to con-

Markle said County Attorney McGrath has agreed to turn over the Sheriff's Reserve files he has in his possession. "If there is more I want to see that he doesn't have, I'll have to get a court order to get it," Markle said.

The Board of Private Security Patrolmen and Investigators' investigation is being limited to whether or not the Reserves, who are working as county deputies but being paid from non-county funds, should be licensed as security agents under state law.

The law permits local law enforcement agencies to contract for some unexpected or "casual" security work. But, according to Markle, payment for such work is expected to be delivered through local government.

"There have been some accusations made that I'm not sure are at all true and we'd like to get them cleared up before we go to court," county attorney.

The Board of Private Security Patrolmen and Investigators asked for an injunction last week to halt what could be construed as unlicensed private security work being performed the Sheriff's Reserves.

The Sheriff's Reserves are a non-profit corporation comprised of trained community volunteers who purchase their own uniforms and equipment. In addition to working as part-time deputies, they have entered several private security contracts under the auspices of the Sheriff's Department.

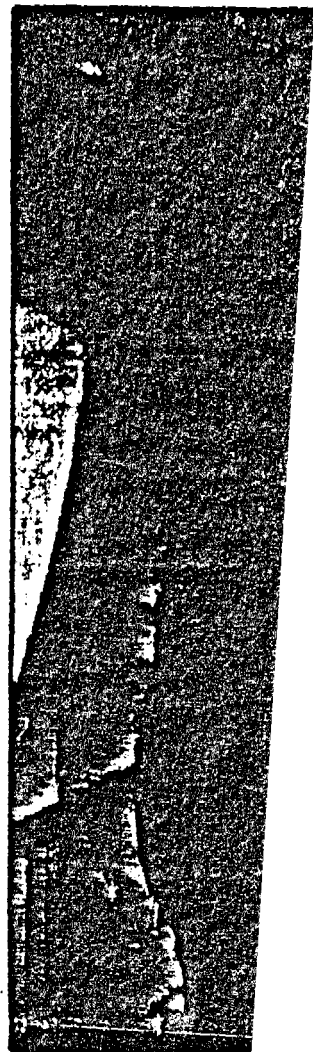
Payment for the security work is made through a private bank account, separate from Lewis and Clark County's carefully-audited general fund, the board was told last

not a private corporation with a private account.

County Attorney McGrath, however, indicated that the board's investigation might be premature. "What we're trying to do at this point is to determine what the board's concern is. There have been some accusations made that I'm not sure are at all true and we'd like to get them cleared up before we go to court," McGrath said.

All security work performed by the Sheriff's Reserves must be approved by Sheriff Chuck O'Reilly. O'Reilly has maintained that the law allows for the Sheriff's Reserves to perform security work and that the Reserves' files are open for inspection.

"I think we're going to get this thing worked out," McGrath said.



also call your
Business Office

(herein called the company)

The Company in consideration of the payment of the premium, in reliance upon the statements in the declarations and the application made a part hereof and subject to all of the terms of this policy agrees with the Named Insured as follows:

INSURING AGREEMENT

The Company will pay on behalf of the Insured all sums which the Insured shall become legally obligated to pay as damages because of negligent acts, errors, or omissions arising out of the performance of the Insured's duties to provide law enforcement with respect to the following perils:

Coverage A—Personal Injury

Coverage B—Bodily Injury

Coverage C—Property Damage

to which this policy applies, and the Company shall have the right and duty to defend any suit against the Insured seeking damages on account of such Personal

Injury, Bodily Injury, or Property Damage, even if any of the allegations of the suit are groundless, false, or fraudulent, and, may make such investigation and settlement of any claim or suit as it deems expedient. The Company shall have the right and duty to defend any suit seeking damages even if the suit results from an allegation of a criminal act, but, the Company does not have the duty to defend an allegation of a criminal act in a criminal court. However, the Company shall not be obligated to pay any claim or judgement or defend any suit, after the applicable limit of the Company's liability has been exhausted by payment of judgement or settlements.

The said indemnity obligation of the Company is limited to civil actions arising from the aforesaid perils, as hereinafter defined and is limited solely to claims made or actions brought with respect to said perils, and such indemnity obligation is limited to the LIMITS OF LIABILITY as hereinafter set forth.

EXCLUSIONS

This policy does not apply:

(a) To any obligation or claims for which the Insured or any carrier as his insurer may be held liable under any workmen's compensation, unemployment compensation, disability benefits law, or under any similar law including acts arising out of class action suits, or to Personal Injury, Bodily Injury, including death, or Property Damage sustained by any paid full or part time and/or auxiliary or volunteer law enforcement officer of the Named Insured directly or indirectly related to his employment by the Named Insured;

(b) To damages arising out of the willful violation of a penal statute or ordinance committed by or with the knowledge or consent of any Insured, or claims of injury arising out of acts of fraud committed by or at the direction of the Insured with affirmative dishonesty or actual intent to deceive or defraud;

(c) To liability assumed by the Insured under any contract or agreement, except mutual law enforcement assistance agreements between political subdivisions;

(d) To Bodily Injury and/or Personal Injury or Property Damage for which the Insured or his indemnitee may be held liable as a person or organization engaged in the business of manufacturing, distributing, selling or serving alcoholic beverages or as an owner or lessor of premises used for such purposes, by reason of the selling, serving or giving of any alcoholic beverage;

(e) To claims arising out of the ownership, operation, use, management and/or control, loading or unloading of any land motor vehicle designed for use principally on public highways, including any machinery or apparatus attached thereto, or any aircraft or watercraft;

(f) To Property Damage to:

1. Property owned or occupied, used by or rented to the Named Insured or any Insured;
2. Property caused by or due to explosion, collapse or fire including the loss of use thereof;
3. Property in the care, custody or control of the Insured or as to which the Insured is for any purpose exercising physical control including disappearance of any tangible property (including money) or the loss of use thereof, while in the care, custody or control of any law enforcement body;

ance of any tangible property (including money) or the loss of use thereof, while in the care, custody or control of any law enforcement body;

4. Property under the operation, management or control by the Insured;

(g) Claims for products liability arising from the use by any Insured of any machinery, equipment or law enforcement instrument, but this exclusion shall not apply to the extent that any such claim relates to negligent use of equipment or instruments intended as law enforcement aids, subject, however, to exclusion (e), which exclusion shall always be applicable even to claims of negligent ownership, operations, management, control or use of such land motor vehicles, aircraft, or watercraft as set forth in such exclusion;

(h) To lawyers liability or any claim relating to the activities of any attorney, legal paraprofessional or legal assistant with respect to the prosecutorial function or the preparation, drafting, submission or publication of any papers or documents by an attorney, legal assistant or legal paraprofessional acting in such capacity;

(i) To claims arising from events during which the injured party was in the care, custody or control of any Insured under this policy other than during an overt attempt to escape from care, custody or control;

(j) To claims arising out of the performance of acts, services, and duties other than for the police or sheriff's department or the municipal, county or state governmental body as named in the declarations, except while acting in furtherance of a mutual law enforcement assistance agreement between political subdivisions;

(k) To claims based upon or arising out of the dismissal or other adverse disposition of a complaint, charge or prosecution resulting from the willful failure or refusal of the Insured to appear and testify at any hearing or trial;

(l) To claims made against or involving the municipal, county or state governmental body having administrative or departmental jurisdiction over the Insured, except as provided in this policy under definition "INSURED".

SUPPLEMENTARY PAYMENTS

The Company will pay, in addition to the applicable limits of liability

A. All expenses incurred by the Company, all costs taxed against the Insured in any suit defended by the Company and all interest on the entire amount of any judgement therein which accrues after entry of the judgement and before the Company has paid or tendered or deposited in court that part of the judgement which does not exceed the limit of the Company's liability thereon;

B. Premiums on appeal bonds required in any such suit, premiums on bonds to release attachments in any such suit for any amount not in excess of the

applicable limit of liability of this policy, but the Company shall have no obligation to pay for or furnish any such bonds;

C. Reasonable expenses incurred by the Insured at the Company's request, including actual loss of wages (but not loss of other income) not to exceed \$50 per day because of his attendance at hearings or trials at such request;

D. Reasonable expenses incurred by the Insured for first aid to others at the time of an accident, for Bodily Injury to which this policy applies

DEFINITIONS

"Bodily Injury" means bodily injury, including death, sustained by any person or persons accidentally caused by an act of the Insured in making or attempting to make an arrest, or while otherwise acting within the scope of his duties as a law enforcement officer.

"Claim" The word "Claim" whenever used in this policy means a demand received by the Insured for money or services, including the service of suit or institution of arbitration proceedings or administrative proceedings against the Insured.

"Claims Expenses" means (1) fees charged by an attorney(s) designated by the Company and (2) all other fees, costs, and expenses resulting from the investigation, adjustment, defense and appeal of a claim, suit or proceeding arising in connection therewith, if incurred by the Company, or by the Insured with written consent of the Company, provided however, that "Claims Expenses" does not include salary, wages or expenses of regular employees or officers of the Company, or fees and expenses of independent adjusters.

"Damages" includes damages for death and for care and loss of services resulting from bodily injury.

"Incident" includes the initial act or acts attributable to a specific alleged crime or complaint resulting in action by the Insured, which crime or complaint can be fixed as to time and place, and any subsequent acts which directly relate to or arise out of the original crime or complaint. All claims arising out of (1) a riot or insurrection, (2) a civil disturbance resulting in an official proclamation of a state of emergency, (3) a temporary curfew, or (4) martial law, are agreed to constitute "one incident."

"Insured" means the Named Insured and all paid full or part time employees of the Named Insured and, the political subdivisions in which the Named Insured is located, should such political subdivision be named in any action or suit against the Named Insured or any employee for any act, error or omission for which the policy affords protection.

"Named Insured" means the law enforcement agency named in Item 1 of the declarations.

Murphy moved that a call for a public hearing be made to amend 8.50.431 (Insurance requirements). The attorney said it was not necessary that a public hearing be called for at this time...it can be done by an amendment to the code first and perhaps calling for a public hearing later. ***

action
this is
M^a Allister
motion 1)
2^d by Murphy

Next on the agenda was the attorney's report with regard to the Lewis and Clark County Sheriff's activities and whether or not he was conducting his business within the confines of the law. He said he reviewed bank accounts, contracts, etc. for the Lewis and Clark County Sheriff's Reserves for the months of May through September, and could find no reason to believe they were acting in other than "casual employment". He also passed out a letter to each board member that was written by the County Attorney. Anderson moved and O'Brien seconded that on the basis of the attorney's investigation, the board take no further action at this time. The motion carried with four assenting and one abstaining vote. The attorney was directed to write a letter in this regard to the concerned parties.

Al Murphy moved and Dave McAllister seconded that an amendment be drafted for the legislature to repeal Section 37-60-406 "Casual Employment." Motion carried. Nominations for Chairman for the new year were called for and Clayton Bain was nominated. It was moved by Anderson and seconded by McAllister that nominations be closed. Clayton Bain will remain the Chairman for the coming year. Nominations were open for Secretary and Evonne Anderson was nominated. Nominations were closed through a motion by Al Murphy and a second by George Evans. Anderson will remain secretary for the upcoming year.

Next item on the agenda was Public Participation.

Joe Malone, Bob Evans and John Daugherty expressed concern over the insurance regulation; Bob Evans, Fred Valiton, Joe Gonzalez, Elwin Kirkwood and Martin Mangan discussed different situations relating to firearms and firearms instructors with Mangan ending the conversation indicating that only the legislature can deal with it.

Chairman Bain appointed ~~Evonne~~ ^{Evonne} Anderson, Chairman and Al Murphy and Dave McAllister a committee to report back to the board at the next meeting.

WITNESS STATEMENT

Name MARTIN T. MADON Committee On _____
 Address 104 Broadway Suite 1 Date 1/15/85
 Representing MALCOLM FALCONE INVESTIGATION SERVICES Support _____
 Bill No. HB 127 Oppose _____
 Amend ✓

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Please Consider Amendment TO CASEAL EMPLOYMENT AS APPROVED BY P.I. BOARD. THE PROPOSED AMENDMENT WOULD REPEAL SECTION 32-60-406.
2. THE PRESENT BILL ON CASEAL EMPLOYMENT (1) PRESUMABLY LEAVE THE OFFICE PEACE OFFICER CONCERNED BY EMPLOYER BENEFIT (2)
3. (2) PRESENTS POSSIBLE CONFLICT OF INTEREST (3) CREATES LIABILITY FOR THE CITY OR COUNTY EMPLOYING THE OFFICER
4. (4) CREATES FATIGUE OR TRAUMATISM BY ADDITIONAL EMPLOYMENT AS A P.I. OR SECURITY GUARD.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name CHAD SMITH Committee On HOUSE BUSINESS
Address BOX 604 HELENA Date 1-15-85
Representing MONT HOSP ASSN Support _____
Bill No. HOUSE 127 Oppose _____
Amend X

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Amend bill by deleting proposed amendment on page 7, lines 5 through 8. The sponsor requested this amendment in his opening presentation.
- 2.
3. The proposed amendment is unnecessary regulation of hospitals, causing additional cost and new problems to obtain personnel. No problem for hospitals exists at present.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Joe F. McInerney Committee On Pub. Investigators
 Address 950 Antwerp, Buffalo Date 1-15-85
 Representing Self - Northwestern Intelligence Sec. Support with exceptions
 Bill No. HB 127 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Generally support HB 127 with amendments & Criminal Employment by Peace Officers 37-60-406
2. Licensing Requirements amend 37-60-303 (h) to 2 YEARS
 HB 127 - Page 10 - Line 16 (g) - amend Pg 10. line 7 (b) to age 19
3. The board of Pub Investigators and Patrolmen should be more Representative of the Pub. Investigative Industry
4. Economic factors necessitate that all regulations and requirements be dealt fairly without giving special favors to "moon light Peace Officers or other numerous groups (railroad employees, etc.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name ROBERT B. EVANS Committee On Private Security/Armed
 Address PO Box 1301, Kalispell, MT 59901 Date 1-15-85
 Representing TIMBERLINE INVESTIGATIONS & Montana Assoc. of Private Invest. & Security Operators (MAPISO) Support ☒
 Bill No. HB 127 Oppose ☐
 Amend ☒

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

- Comments: Basically Support HB 127 with amendments
1. amend - Casual Employment by Peace Officers/Reserve
 ref: 37-60-406 should be deleted.
 2. amend - Include Proprietary Security in qualifying
 agent resident - manager/branch office -
 Delete portion HB 127 on page 9 lines 8-9.
 3. Amend - HB 127 needs clarification to make clear
 distinction between requirements for license/employer
 and requirements for ID/registration card holder/employee
 4. Amend - HB 127 by delete page 10 line 10 ~~state~~ and
 insert state residency requirement in security
 TITLE 37-60 should contain ^{state} residency requirement
 - amend - HB 127 - Delete lines 2 thru 7, page 11
 which substitutes college degree for experience
 5. Amend - HB 127 page 12 lines 23 thru 25 -
 to issue Registration Cards to individual w/o
 regard to employer!

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

1

Sirs & Gentlemen of the Committee - Good Morning.

My Name is Robert B Evans.

I am President of Timberline Investigations, &
We were duly chartered in Montana in March 1981
as a sub-chapter S small business corporation.

I hold license 240 as a Contract Security
and license 241 as a Private Investigator.

I have 23 years experience military
experience with a goodly portion of that time
spent as in Military Intelligence, Military
Security and/or Investigations and as a
Trial Counsel or Defense Counsel.

I also have & more than 3 year
as an insurance agent and adjuster, 4 years
internal store security, 3 1/2 years motel
security and I was a U.S. Customs
Inspector for 9 years.

I belong to The National Council
of Investigators and Security Services (NCISS)
This is a highly respected nation-wide
organization whose members include &
of the largest private security and investi
firms in the U.S. I am also a
member of the California Association of
Licensed Investigators (CALI).

I speak to you this morn
both as a Private individual and

Keeping w
Governor
economic
views

as Vice-President and Legislative Liaison
of the Montana Association of Private
Investigators and Security Operators (MAPISO)

* Previous income ^{approx} 150 all times - Now approx 175 - Projected 1000 *

XX → Basically, our organization regards HB 127
as a step, all though a small step,
in the right direction. We favor the bill
with some amendments.

Item I — HB 127 does not address
the problem of "CASUAL" employment of
Peace officers and Peace Officer Reserves.
Specifically, the exemption granted under
current title 37-60-406.

There are some very critical
questions arising from this exemption.

(1) At what point does a peace
officer stop being "private" security or
investigator and become a law
enforcement officer? If he has a
problem (and especially if he uses ~~his~~
or announces his peace officer status)

(2) Who then is liable for his
actions? Clearly, if a law suit is
instigated, the political agency he invoked
will be named and sued. After all, as
lawyers say, "That's where the money is."

(3) If this officer is injured as a

result of his "private" security functions who is responsible for his disability? Again, clearly the political sub-division will have the great benefits.

4. Finally, this exemption gives peace officers, and reserves, an unfair financial advantage. Some of them, especially reserves may not even meet the qualifications being demanded for licensure. The exemption is extremely difficult to supervise and enforce, and the word "Casual" lacks precise legal definition.

We do not object to officers working "off-duty". But ~~clearly~~ "off duty" must be a clear distinction as to private activity. The officer is then a private citizen subject to the same rules as the rest of us.

We recommend ~~that~~ HB 127 be amended to delete 37-60.406.

Support as presented this morning

~~Section 3 of HB 127 (on page 8, lines 3 to 25 and on page 9 lines 1 to 9) proposes to exempt PROPRIETARY Security Organizations from the requirement for a qualifying agent and resident manager. If a proprietary organization is headquartered out of state (i.e., Pennys, Fred Meyer BFB Shopping Centers, ARCO formerly Anaconda Aluminum, Osco/Butcher, or~~

Some case of

(Sheriton Hotels to name but a few) then who will the state licensing board turn to if there is no in-state resident manager or qualifying agent? How will the board know if local security employees are licensed or properly trained? Who will over-see local day-to-day operations?

We recommend that portion of HB 127 on page 9 lines 8 and 9 be deleted. If you are going to regulate security and investigative functions, why define and EXEMPT a special segment? A rose is a rose! The law should have equal application.

(Item III HB 127 does not clarify the distinction between licensee (employer) and identification/registration card employee. Title 37-60 sections 305 and 306 requires both to meet the same qualifications. (HB 127, ~~pages 15 lines 2-3 & 4~~ add a written examination requirement for employees. We recommend that ^{Title 37-60} ~~HB 127~~ be clarified to provide a clear distinction between licensee/employer and identification/registration card employee requirements.

already removed →

(Item IV HB 127, section 4 amends 37-60-303 "License Qualifications" by

5

Page 10 line 10 and deletes a state residency requirement for investigators. We recommend this be retained. We also ~~strongly~~ strongly recommend a residency requirement be inserted in the portion pertaining to security qualifications.

Change 2 in this section is found on page 11, lines 2 thru 7. A college degree does not automatically confer experience. A degree in Advanced Anthropology, Early Spanish Philosophy, or in English Literature does not contribute to experience as a security operator, and it most certainly does not substitute for investigative experience. We recommend deletion of this added paragraph.

Item V Section 6 of HB 127 amends 37-60-305 (see page 12 lines 23 to 25 and page 13 lines 9-10-11) by ~~adding~~ providing that an applicant for registration card (firearms) must name the business employer. What if the applicant works part-time for 2 or more employers? Or what if he changes employers? The registration or ID card should be issued in regard to an individual, NOT the business! We recommend the last

6
(portion - - all after "through (2) (g)" he
deleted.

~~I would like to introduce~~
~~Mr. Craig Christie who has some comments~~
Thank you!

WITNESS STATEMENT

Name CRAIG CHRISTIE Committee On BUSINESS + LAB
Address 2612 BELKNAP AVE BILLINGS Date 1-15-85
Representing LEGAL INVESTIGATION BUREAU Support _____
Bill No. 127 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

AMEND TO DELETE CASUAL EMPLOYMENT BY LAW ENFORCEMENT

2.

CLEARLY DEFINE LICENSEE, REGISTRANT AND EMPLOYEE

3.

PROVIDE FOR THREE YEAR TRAINING PERIOD FOR PRIVATE LI

4.

LEAVE PRIVATE INVESTIGATOR EMPLOYEE'S TO THE DISCRETION
OF LICENSEE AND BUSINESSMAN.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

BOARD OF PRIVATE SECURITY
PATROLMEN AND INVESTIGATORS
DEPARTMENT OF COMMERCE



1424 9TH AVENUE

STATE OF MONTANA

(406) ~~444-3738~~ 444-3738

HELENA, MONTANA 59620-0407

December 12, 1984

Craig W. Christie
Legal Investigation Bureau
2612 Belknap Avenue
Suite 206
Billings, MT 59101

Dear Mr. Christie:

It has been determined by the Board of Private Security Patrolmen and Investigators that the applications for Clarissa Ann Wright and Helen K. Ewalt cannot be approved since neither meet the experience requirement of Chapter 60, Title 37. Also Helen Ewalt does not meet the age requirement. While they both indicate 2 years of education or training...this can only be credited as 1/2 the experience requirements (see Chapter 50, Section 8.50.428(3)). Also, Greg Stovall does not meet the experience requirements and since the statute or rules make no provision for temporary or probationary private investigators, they cannot be registered. Money orders for Greg Stovall and Clarissa Wright are enclosed. I will request a \$75.00 refund for Helen Ewalt.

There is still a question concerning Harry Wilson...a reference letter indicates that he is a member of the Sheriff's Reserves in Stillwater County. His application does not indicate this and depending on how long he has served and type of service, it might possibly count towards the experience requirement. His application is being returned for additional information. In addition, if Mr. Wilson qualifies, he will need to take the exam since there is no provision to waive it.

I'm enclosing a copy of a letter written to Bradley Stovall which explains his situation.

Sincerely,

A handwritten signature in cursive script that reads "Mike Archibald".

Mike (Margarette) Archibald
Administrative Assistant

Enc.

P. S. If you have questions concerning the legality of this decision, please refer them to Mr. Brinton Markle at 444-4313.

12-18-84

MIKE ARCHIBALD

BOARD OF PRIVATE SECURITY

PATROLMEN AND INVESTIGATORS

1424 9TH AVENUE

HELENA, MONTANA 59620-0407

DEAR MIKE,

I AM RESUBMITTING THE APPLICATIONS OF HELEN ELWALT, CHARISSA WRIGHT, HARRY WILSON, GREG STOVALL AND BRANLEY STOVALL UNDER SECTION 8.50.505 OF THE ADMINISTRATIVE RULES OF MONTANA, PER SECTIONS 37-60-401 M.C.A. AND ~~37-60-505 M.C.A.~~ SECTION 8.50.435 OF THE ADMINISTRATIVE RULES OF MONTANA IN COMPLIANCE WITH SECTION 8.5.437(2)(c) OF THE ADMINISTRATIVE RULES OF MONTANA.

WOULD YOU PLEASE PROCESS THE APPLICATION ACCORDINGLY AS PRIVATE INVESTIGATOR EMPLOYEES NOT LICENSEES.

I HAVE BEEN IN CONTACT WITH BRINT MAI AND SUBMITTED A LEGISLATIVE PROPOSAL TO DEAL WITH EMPLOYEES, PER SE. I THINK HOWEVER THAT WHEN LITERALLY TRANSLATED, THE ABOVE SECTIONS SHOULD ACCOMPLISH WHAT I WANT FOR THE TIME BEING. YOU MIGHT WANT TO IT PAST BRINT, TO CHECK FOR LEGALITY.

MY NAME IS CRAIG CHRISTIE. I REPRESENT LEGAL INVESTIGATION BUREAU IN BILLINGS. I HAVE FOURTEEN YEARS LAW ENFORCEMENT EXPERIENCE AS A POLICE OFFICER, DEPUTY SHERIFF, AND AS UNDERSHERIFF IN TWO MONTANA COUNTIES. I HAVE BEEN A MEMBER, IN GOOD STANDING, OF THE MONTANA SHERIFF'S AND PEACE OFFICER'S ASSOCIATION, SINCE 1977. I HAVE A MASTER'S DEGREE IN CORRECTIONS AND A BACHELOR'S DEGREE IN CRIMINAL JUSTICE. I HAVE BEEN A LICENSED PRIVATE INVESTIGATOR AND CONTRACT SECURITY COMPANY ~~SEE~~ IN THE STATE OF MONTANA ~~SEE~~ FOR OVER THREE YEARS.

I AM GENERALLY IN FAVOR OF HOUSE BILL 127, WITH SOME AMENDMENTS. I AGREE WITH WHAT HAS BEEN SAID WITH REGARD TO DELETING CASUAL EMPLOYMENT BY LAW ENFORCEMENT OFFICERS DUE TO CONFLICT, PUBLIC LIABILITY AND FATIGUE ON THE PART OF OFFICERS.

IN REGARD TO SECTION 37-60-303 PROVIDING FOR REGISTRATION REQUIREMENTS OF ARMED GUARDS AND INVESTIGATORS LOCATED ON PAGE ¹³~~12~~, LINE ⁹⁻¹⁰⁺¹¹~~10~~ ~~IS NOT THERE~~. I HAVE DIFFICULTY IN DISTINGUISHING ANY DIFFERENCE BETWEEN A LICENSEE, A REGISTRANT AND AN EMPLOYEE.

IT APPEARS AS THOUGH NO PROVISIONS EXIST FOR PRIVATE INVESTIGATOR EMPLOYEES, WHILE STATUTES EXIST REGULATING LICENSEE QUALIFICATIONS AS, IN PART, BEING LAWFULLY EMPLOYED AS A PRIVATE INVESTIGATOR, 37-60-303(1)(i). IN SECTION 37-60-306(2), IT APPEARS THAT IDENTIFICATION CARDS FOR LICENSEES AND REGISTRANTS IS SYNONYMOUS AS FAR AS QUALIFICATIONS ARE CONCERNED. IN SECTION 37-60-309(3), THERE IS A PROVISION FOR THE NAME OF THE LICENSEE EMPLOYING THE INDIVIDUAL THAT THE IDENTIFICATION IS ISSUED TO, MAKING A DISTINCTION BETWEEN THE EMPLOYEE AND LICENSEE.

IN SECTION 37-60-401 THERE IS RESPONSIBILITY OF A LICENSEE FOR THE CONDUCT OF HIS EMPLOYEES.

AND IN SECTION 37-60-401 THERE IS A DUTY OF THE LICENSEE TO MAINTAIN EMPLOYEE RECORDS.

I HAVE YET TO FIND HOW AN INDIVIDUAL BECOMES REGISTERED OR QUALIFIED FOR EMPLOYEE STATUS WITHOUT ACTUALLY QUALIFYING FOR LICENSING STATUS, WHICH IN EFFECT, ELIMINATES ANY EMPLOYEE STATUS.

IN THE ADMINISTRATIVE RULES OF MONTANA THERE ARE PROVISIONS FOR EMPLOYEE REGISTRATION FEES AND PROVISIONS FOR A 90 DAY TRAINING PERIOD OR APPRENTICESHIP.

AN EMPLOYEE CANNOT RECEIVE THE THREE YEARS REQUIRED EXPERIENCE FOR LICENSING IN THE GIVEN 90 DAY PERIOD.

THERE APPEARS TO BE CONFLICT BETWEEN THE STATUTES AND ADMINISTRATIVE RULES, OR AT LEAST AN OVERSIGHT IN BOTH.

THERE ALSO SEEMS TO BE A BUILT-IN AGE DISCRIMINATION WITH THE 25 YEAR OLD MINIMUM AGE REQUIREMENT.

I WOULD LIKE TO PROPOSE AN AMENDMENT THAT WOULD MAKE A ^{CLEAR} DISTINCTION BETWEEN THE LICENSEE, A REGISTRANT AND AN EMPLOYEE THAT WOULD LEAVE EMPLOYEES TO THE DISCRETION OF THE HIRING LICENSEE AND PROVIDE FOR THE THREE YEAR EXPERIENCE REQUIREMENT FOR LICENSURE.

DUE TO THE TIME ELEMENT INVOLVED IT APPEARS TODAY AN EXTREMELY SHORT NOTICE I AM NOT PREPARED TO SUBMIT A WRITTEN PROPOSED AMENDMENT, HOWEVER, I WOULD BE WILLING TO COOPERATE WITH THE COMMITTEE IN DRAFTING AN AMENDMENT.

CRAIG W. CHRISTIE
LEGAL INVESTIGATION BUREAU
BILLINGS, MT. 59101

VISITORS' REGISTER

HOUSE

BUSINESS AND LABOR

COMMITTEE

BILL HB 127 (127)

Date 1/15/85

SPONSOR Rep. Keuper

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Shep Small	Payson Mont (Big Horn)	Legat. Invest. Bureau	w/Amend.	
DON VALITON	OUANDO, MT.	MT ASSN PRIV. INVEST. & SECURITY OPERATORS	w/AMEND.	
Grant Small	Bridger Mont	Legal Invest. Bureau	w/Amend.	
Karie McKinnon	Billings, Mont	Legal Invest. Bureau	w/Amend.	
Zed Clark	Clancy, MT	Security Services	w/Amend.	
David Small	Biggs MT	Legal Invest. B.	w/Amend.	
CRAIG CHRISTIE	BILLINGS, MT.	LEGAL INVESTIGATION BUREAU	w/AMEND	
Gary Dupuis	EAST HELENA, MT.	G.A.R.D. PROCESS SERV.	w/Amend	
Mark Morgan	Helena, MT	Helena Investigative Services	w/Amend	
Robert Morgan	Helena MT	AFSCME		
Sandy Blanchard	Gt. Falls	Big Sky Security Patrol	NOT Testing	
Clayton Bain	Helena	Board of Private Security	✓	
John B. Evans	Calvin, MT	MT. ASSN. Private Inv. & Security	w/Amend	
Larry Wemba	Helena	MT. Univ. System	No position	
Shirley Miller	Helena	Dept of Commerce	No Position	
R. J. Kay	Helena	—	—	—
Chuck Rudy	Helena	MT Sheriff's Peace Officers		X
CHAD SMITH	HELENA	MONT HOEP ASSN	AMEND	
John Delano	"	Mont RR assn		
Ray Blanchard	HELENA	not a Billings Investigative		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

of the city of Billings. The hassle of obtaining a liquor license in the state of Montana does deter reputable, out of state firms from coming into the state. Representative Simon asked the committee if moving 14 licenses statewide would create such a large impact on the tavern industry.

Representative Ellerd asked Mr. Uleston the cost of the licenses that are presently available in Billings. Mr. Uleston stated that they are from \$120,000 to \$145,000. Representative Ellerd then asked what a new license issued by the state costs. For a new issuance the fee is \$20,000, explained Mr. Uleston.

Representative Driscoll submitted Exhibit 5, attached hereto.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on HB 261 was closed.

ACTION ON HOUSE BILL 127: Representative Bachini explained the proposed amendments to HB 127 that were suggested by the subcommittee. Representative Bachini moved that HB 127 DO PASS AS AMENDED. Representative Kadas proposed an amendment on page 12, line 19, which would allow for a written notification to be sent to the sheriff. Representative Schultz asked with the casual employment included, if the county would still be liable. It would depend on the individual circumstances. Representative Kadas added that the county or city will still carry a large amount of liability. Representative Glaser added that all reference to security alarm systems should be removed from HB 127. Mr. Clayton Bain and Sheriff Chuck O'Reilly did not object. Representative Brandewie made a substitute motion that House Bill 127 be held until HB 132 and 162 have been presented by the subcommittee. Representative Kadas suggested that perhaps a committee bill should be drafted, and that there is no reason for this bill to include the security alarm system industry. Question being called, Representative Brandewie's substitute motion that HB 127 be held resulted in 12 members voting no, 6 members voting yes and one abstaining. Representative Bachini's motion to move the amendments did PASS unanimously. Representative Kadas' amendment was included in the vote. Representative Glaser moved that all references to security alarm systems in HB 127 be stricken. Question being called for, Representative Glaser's move was PASSED unanimously. Representative Bachini's

Business and Labor Committee
January 23, 1985
Page 6

motion that HB 127 DO PASS AS AMENDED received 15 members voting yes, 4 voting no and 1 abstaining. HB 127 DOES PASS AS AMENDED.

ADJOURN: There being no further business before the committee, the meeting was adjourned at 11:20 a.m.


BOB PAVLOVICH, Chairman

DAILY ROLL CALL
BUSINESS AND LABOR COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date January 23, 1985

NAME	PRESENT	ABSENT	EXCUSED
Bob Pavlovich	✓		
Les Kitselman	✓		
Bob Bachini	✓		
Ray Brandewie	✓		
Jan Brown	✓		
Jerry Driscoll	✓		
Robert Ellerd	✓		
William Glaser	✓		
Stella Jean Hansen	✓		
Marjorie Hart	✓		
Ramona Howe	✓		
Tom Jones	✓		
Mike Kadas	✓		
Vernon Keller	✓		
Lloyd McCormich	✓		
Jerry Nisbet	✓		
James Schultz	✓		
Bruce Simon	✓		
Fred Thomas	✓		
Norm Wallin	✓		

ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 1-23-85 BILL NO. 127 TIME 11:20

NAME	AYE	NAY
Bob Pavlovich		✓
Les Kitzelman	✓	
Bob Bachini		✓
Ray Brandewie	✓	
Jan Brown	✓	
Jerry Driscoll		✓
Robert Ellerd		✓
William Glaser	abstain	
Stella Jean Hansen		✓
Marjorie Hart		✓
Ramona Howe		
Tom Jones		✓
Mike Kadas		✓
Vernon Keller	✓	
Lloyd McCormick		✓
Jerry Nisbet		✓
James Schultz	✓	
Bruce Simon		✓
Fred Thomas		✓
Norm Wallin	✓	

Secretary Debbie Aquil

Chairman Bob Pavlovich

Motion: Brandewie motion to hold bill until 142 & 132
have been presented by sub-comm.

ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 1-23-85 BILL NO. 127 TIME _____

NAME	AYE	NAY
Bob Pavlovich		
Les Kitzelman		✓
Bob Bachini		✓
Ray Brandewie	✓	
Jan Brown	✓	
Jerry Driscoll	✓	
Robert Ellerd	✓	
William Glaser	abstain	
Stella Jean Hansen	✓	
Marjorie Hart	✓	
Ramona Howe	✓	
Tom Jones	✓	
Mike Kadas	✓	
Vernon Keller	✓	
Lloyd McCormick	✓	
Jerry Nisbet	✓	
James Schultz		✓
Bruce Simon	✓	
Fred Thomas		✓
Norm Wallin	✓	

Secretary Debbie Aqui

Chairman Bob Pavlovich

Motion: Do Pass As Amended

CHAIRMAN--HALLIGAN, MIKE
NORMAL SCHEDULE==> SITE: ROOM 410

DAYS: M-TU-W-TH-F

TIME: 10:00 A.M.-12 NOON

SECRETARY-DUVAL, CAROL

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0029	1/14	1/18	1/18	CONCUR		1/18
WILLIAMS, J. MELVIN	(MEL)		MOVING CONTRACTOR RESIDENCY DETERMINATION FROM DEPT. OF REVENUE TO COMMERCE			
HB0043	1/22	1/30	1/30 3/05	CONCUR		3/5
HARPER, HAL			UNIFORM TRADE SECRETS ACT			
HB0072	1/24	2/06	2/06 3/05	CONCUR AS AMENDED		3/5
KITSELMAN, LES			REGULATION OF INTEREST RATES ON LIFE INSURANCE POLICY LOANS			
HB0085	2/19	3/08		CONCUR		3/8
LORY, EARL C.			STATE ELIGIBLE FOR PUBLICLY OWNED GOLF COURSE BEER AND WINE LICENSES			
HB0121	3/04	3/27		CONCUR AS AMENDED		3/27
NATHE, DENNIS G.			UTILITY RATE CLASSIFICATION FOR AREAS LACKING AN ALTERNATIVE TO ELECTRICITY			
HB0127	1/30	2/07	2/07 3/05 3/28	CONCUR AS AMENDED		3/28
KEYSER, KERRY R.			REVISE LAW ON PRIVATE INVESTIGATORS AND SECURITY PATROLMEN			
HB0175	2/04	2/07	2/07 3/05	ADVERSE REPORT		3/5
KADAS, MIKE			INCREASING MEMBERSHIP OF BOARD OF PRIVATE SECURITY PATROLMEN			
HB0183	2/12	3/19	3/21 3/22 3/29	CONCUR AS AMENDED		3/29
ELLERD, ROBERT A.			DESIGNATED NONSMOKING AREA REQUIRED FOR ALL ENCLOSED PUBLIC PLACES			
HB0184	2/11	3/07		CONCUR AS AMENDED		3/7
SCHYE, TED			ALLOW CASH BINGO PRIZES			
HB0195	1/30	2/07	2/07 2/08	CONCUR		2/8
GARCIA, RODNEY L.			REPLACING REFERENCES TO MOBILE HOMES WITH FACTORY-BUILT BUILDINGS			
HB0215	2/07	3/06		CONCUR AS AMENDED		3/6
MILES, JOAN			ALLOW TEMPORARY BEER ADS ON EXTERIOR OF RETAILERS' PREMISES			

He feels it may, instead, raise the cost of the board and that they should go on as it is for another two years. Shirley Miller Bureau Chief of Professional Occupations, presented a fact sheet to the committee which showed the number of various boards in the state presently, their various sizes, the range of the number of licensees and the cost of various 9 member boards per year. (EXHIBIT 3) They estimate that adding two additional members would put the board's budget \$1,268 in the red in FY86 and \$1,387 in FY87.

Questions from the committee were then called for. Senator Fuller wanted to know about the deficit that might be incurred and Shirley Miller explained all boards are self-sufficient and this board started out in debt because of the Haines pipeline debts. Senator Goodover wanted to know what major problems had arisen and was told by Clayton Bain there was a conflict between peace officers and private industry competing against each other. He further stated that adding two more people would not resolve the conflict. Senator Fuller wanted to know why a member of the board was from the peace officers advisory board and was told it was because they wanted someone with knowledge and training. Senator Fuller suggested taking off a member of the peace officers advisory council and putting on one more member from private industry. In closing, Rep. Kadas stated the main problem is casual employment and there are some minor problems with insurance. He feels the cost of adding two people is minimal and the board could raise its fees if necessary. He hoped if the committee kept the board at 7 people that it would be industry controlled. The hearing was closed on House Bill 175.

CONSIDERATION OF HOUSE BILL 127: Rep. Kerry Keyser, House District 74 from Ennis, introduced this bill at the request of the Department of Commerce to revise the laws concerning private security patrolmen and investigators. He would like to propose two amendments to his bill. (EXHIBIT 4)

PROPOSERS: Clayton Bain, Chairman of the Board of Private Security and Investigators, explained this bill will allow the board more flexibility to establish training programs for probationary and temporary licensees and employees. (EXHIBIT 5) Don Valiton, representing the Montana Association of Private Investigators, supports this bill and feels the changes are necessary and that the bill as passed by the House has removed the controversial features. He feels private security people provide service for homes, high tech industries, and are a savings to taxpayers on law enforcement protection.

OPPOSERS: There were no opponents to House Bill 127.

Questions were then called for from the committee. Senator Fuller wanted to know why they were removing non-profit societies and was told it was because so many different organizations were attempting to come into the organization and this would limit it. Police reserves can be licensed if there is a long term contract with a private firm. Senator Christiaens wanted to know why

the change in education requirements. Clayton Bain said it was because some people were in law enforcement before and already had some education. Rep. Keyser stated in closing that he felt this was a real compromise between the board and private industry and that it deserves to pass. Senator Halligan asked Clayton Bain to bring a copy of the rules and regulations for private security patrolmen. (EXHIBIT 6)

CONSIDERATION OF SENATE BILL 250: Senator Joe Mazurek, Senate District 23 of Helena, introduced this bill at the request of the Board of Realtors & Regulation, to establish a recovery fund in the State of Montana and eliminate the need for realtors to purchase a \$10,000 bond annually. In the recovery fund there would be a minimum balance of \$100,000 which would provide a base for which claims made against realtors that result in judgements could be taken from. There would be a limit of \$25,000 per realtor. He explained that the limit of the amount which can be claimed against a realtor would be raised from \$15,000 to \$25,000. It formerly required the grounds of fraud, deceit or conversion of funds in the statute and this has now been broadened to apply to conversion of trust funds or any act arising directly out of or transactions for which a licensed realty salesman is required. They also have stricken the right of the board of realty regulation to attack the validity of the judgements. He felt if the bill were closely examined it would just be a matter of whether or not the recovery fund concept is appropriate. He gave the committee a sample of the bond which is currently required. (EXHIBIT 7) He would like to propose some amendments to allow the board to purchase reinsurance.

PROPONENTS: Terry Carmody, with the Montana Realtors, supports this bill. Lon Mitchell, Administrative Officer and Attorney for the Board of Realty Regulators, stated there are a minimum of 30 states which currently have recovery funds. He feels this legislation would cut administrative costs. (EXHIBIT 8) Lyle McKenna, with the Board of Realty Regulations, feels this bill will protect the public, save them money and will not harm the bond's people either. (EXHIBIT 9) Marilyn Foss, President of the Association of the Montana Realtors, feels this bill will give them a good public image. Robert Minto, Attorney from Missoula, feels the principle of this type of legislation is good for the industry and for the public. (EXHIBIT 10) Ken Hoovestall, from the Great Falls Board of Realtors, feels strongly about this legislation and likes the idea of the money staying in Montana. Rep. Dorothy Cody, House District 20, favors this legislation because it will counteract some bad feelings in the industry. Chuck Holland, an independent insurance agent from Helena, stated he writes bonds but doesn't solicit to sell them because they lose money on what they do sell. William Spilker, realtor from Helena, feels they are mandated by law to protect the public and this would help the realtors provide that protection in an economical way. Carl Rickman, realtor from Billings, feels it would make it easier for licensed realtors to deal directly with the state if this passes.

ROLL CALL

BUSINESS & INDUSTRY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/7/85

SENATE SEAT #

NAME	PRESENT	ABSENT	EXCUSED
Chairman Halligan	X		
V-chrm. Christiaens	X		
SENATOR Boylan	X		
Senator Fuller	X		
SENATOR Gage	X		
SENATOR Goodover	X		
SENATOR Kolstad	X		
SENATOR Neuman			
SENATOR Thayer	X		
SENATOR Williams	X		

Each day attach to minutes.

DATE 2/7/85

COMMITTEE ON BUSINESS AND INDUSTRY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
JIM KEMBEL	Building Codes DOA	HB 195	✓	
Nelma Dallas				
LON MITCHELL	BOARD OF REALTY REG	SB-250	✓	
Shirley Miller	Dept of Commerce	HB 175		
Clayton Bain	Board of Private Investors	HB 127	✓	
Ken Hooverster	B. Full, P. of Realtors	HB 175		✓
Tom Olt	Mont Assoc of Private Inv. & Sec	SB-250	✓	
Ray Valiton	" " " " " "	HB 127	✓	
Lyle Christensen	Board of Realty Reg	HB 175	✓	
Dale Ann Valiton	Mont Ass of Private Inv. & Sec	HB 127	✓	
DAVID G. HOTVEDT	" " " " " "	HB 175	✓	
(DON VALITON	MT. ASSN. PRIV. INVESTI- GATORS & PRIV. SEC. OPERATORS	HB 127	X	
Carl Rieckmann	myself - Kiber Real Estate	HB 175	X	
Alan Duple	American Bankers	SB 250		✓
Deanne Donnelly	Mont Assoc of Counties	HB 195		
Chuck Holland	SELF	?	?	?
Meulyn Foss	mt Assn of Realtors	SB 250	✓	
Kirt Harreling	MT. ASSE. of REALTORS	SB 250	✓	
Mike McKenna	Board of Realty Reg	SB 250	✓	
Kurt Dicks	Observer			
Richard B. Gillespie	Western Surety	SB 250		✓
ROBERT W. MINTO	SELF	SB 250	✓	
WILLIAM SPILKER	SELF	SB 250	✓	
(Dennis Reberg	HD #88	250	✓	
Don Schutte	Self - Mt Assoc of Real	SB 250	✓	
Terry Carmody	Mont REALTOR	SB 250	✓	

(Please leave prepared statement with Secretary)

[illegible]

(Please leave prepared statement with Secretary)

Quality Inn
Coach House East
 2101 E. 11th Avenue, Helena, Montana 59601
 Phone: (406) 443-2300

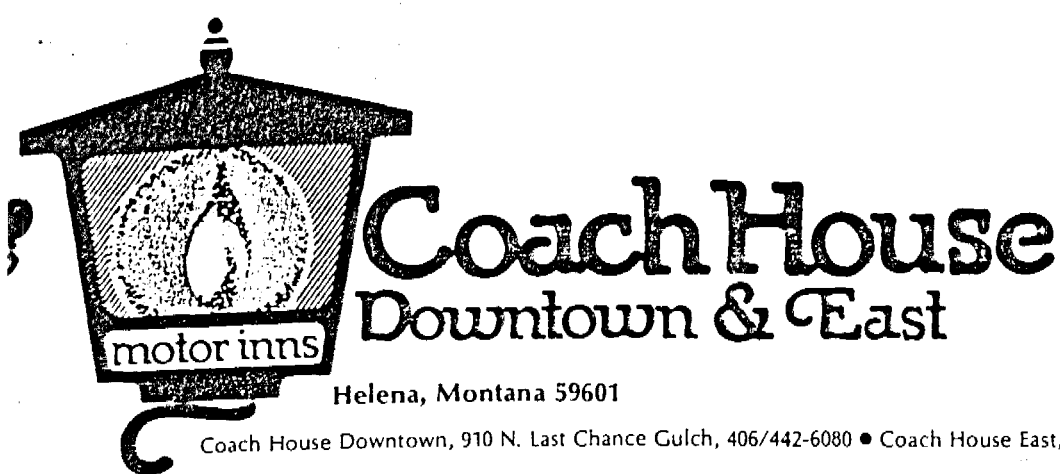


2/2/85

We THE UNDERSIGNED, SUPPORT House Bills #127 & #175,
 BOTH AS INDIVIDUALS AND AS PRIVATE BUSINESS OPERATORS.

<u>NAME</u>	<u>BUSINESS</u>	<u>ADDRESS</u>	<u>PHONE</u>
Joe Gonzales	Western Security	Box 216, Billings, MT	259-7444
John Lacey	Valley Security	Box 106, Conrad, MT	961-4383
Joseph R. Reif	Sapphire Security	Box 42, HAMILTON MT.	363-4737
Don Reimer	Timberline Trucking, Inc.	1301 Karlsgaard Mt.	257-1636
James P. Swanson	Northwest Security Service	Box 1826, Helena, Mont	265-8541
Joseph R. Auer	G.A.R.D. Process Serv.	Box 900 East Helena MT	442-7294
Deigh Ann Whitton	Security Service Co.	P.O. Box 4236 Helena	442-7110
Robert W. Heagy	Sentry Security Serv.	201 So. Sergeant's Building	325-4344
Martin J. Mangum	Mangum Associates, Inc.	3405 W. 4th St. Helena	277-5411
Miguel M. Mota	LEGAL INVESTIGATIONS BUREAU	2612 BELKNAP AVE BLGS	252-7768
Paul P. White	Security Service Co.	P.O. Box 4236 Helena	442-7100

EXHIBIT 2
 BUSINESS & INDUSTRY
 February 7, 1985



To the 49th Legislative Session:

I, being a licensed private investigator by the State of Montana, support the passage of HB-127, HB-175 and SB-222.

Signed this 2nd day of February 1985.

A. L. Lyle

Emergency Protection Services

P.O. Box 371

Deer Lodge, MONTANA 59722

EXHIBIT 2
BUSINESS & INDUSTRY
February 7, 1985



it's where you belong

200 UNITS • 2 RESTAURANTS • 2 COCKTAIL LOUNGES • MEETING ROOMS • POOLS • SAUNAS

PROPOSED AMENDMENTS TO HOUSE BILL 127

EXHIBIT 4
BUSINESS & INDUSTRY
February 7, 1985

1. Page 7, line 10.

Following: "at law"

Insert: ",a paralegal or legal assistant employed
by an attorney at law,"

2. Page 8, line 2.

Following: "37-60-101(10)"

Strike: "."

Insert: ";

3. Page 8.

Following: line 2

Insert: (9)internal investigators and auditors,
while making an investigation incidental to the
business of the agency or company for which they
are singularly employed."

NAME :

DATE: 2-7-83

ADDRESS :

PHONE :

REPRESENTING WHOM? Board of Private Security and Investigation

APPEARING ON WHICH PROPOSAL: NB 175 and NB 127

DO YOU:

SUPPORT

HA 127

AMEND?

OPPOSE?

HB 175

COMMENT :

EXHIBIT 5
BUSINESS & INDUSTRY
February 7, 1985

quoted from a news article regarding flexible premium variable life policies. He wondered if such policies should be viewed as investments and whether insurance people would have to have a securities license. He felt it might indicate they would be selling insurance and then investing the moneys in a company that they own. Senator Neuman thought this was different than what the bill deals with and Lester Loble confirmed this was so and this bill is not dealing with securities. Senator Neuman asked if interest rates might rise to take care of bad investments in the future and Lester Loble felt this would not be the case. Senator Neuman wondered if people investing in these types of policies might be taken advantage of. Senator Christiaens felt this was the main concern whether or not you could still borrow on the low interest rates you can now obtain from your whole life policies. Senator Thayer felt you would still have this option if you desired it however. Senator Kolstad felt that many many people have benefited from the low interest rates on loans. Senator Neuman asked about using the Moody's bond rate and Lester Loble explained this was picked because it goes along with the trend of the times and felt that people would not go wrong by investing this way because the rates are still generally lower than the national average. Senator Christiaens, Senator Gage, and Senator Kolstad expressed concern about still being able to buy either type of policy. Senator Weeding felt that you might be able to receive greater dividends with the variable policy which would more than make up the premium difference. On a roll call vote the motion to concur was 5 to 5. Senator Fuller was absent for the vote. Senator Kolstad then moved for a new roll call vote when Senator Fuller arrived. The vote was then 6 to 5 in favor of passing the bill as amended. Senator Halligan, Senator Christiaens, Senator Goodover, Senator Kolstad and Senator Neuman voted no. Senator Crippen will carry the bill on the Senate floor.

DISPOSITION OF HOUSE BILL 127: This bill revises the laws on private investigators and security patrolmen. There were some amendments proposed for the bill. (EXHIBIT 2) The committee had earlier requested a copy of the rules of the board of private security patrolmen and investigators and these were distributed. (EXHIBIT 3) Don Valiton, from the Association of Private Investigators was asked about the need for the legislation and he explained some of the changes were just housekeeping in nature and would help them operate more efficiently. Senator Christiaens then moved to PASS the four amendments as proposed for House Bill 127. This motion carried. Senator Neuman expressed his concern for the immediate effective date. He then made a motion to strike the immediate effective date. This motion carried.

The committee had a short discussion on a bill concerning the installation of alarms systems which might require the same effective date as this bill. The committee then decided to wait for final action until this bill is also heard in the Senate.

ROLL CALL

BUSINESS & INDUSTRY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/5/8

SENATE
SEAT
#

NAME	PRESENT	ABSENT	EXCUSED
Chairman Halligan	X		
V-chrm. Christiaens	X		
Senator Boylan	X		
Senator Fuller	X		
Senator Gage	X		
Senator Goodover	X		
Senator Kolstad	X		
Senator Neuman	X		
Senator Thayer	X		
Senator Williams	X		
Senator Weeding	X		

Each day attach to minutes.

PROPOSED AMENDMENTS TO HOUSE BILL 127
Third Reading, Blue Copy

EXHIBIT 2
BUSINESS & INDUSTRY
March 5, 1985

1. Page 7, line 10.

Following: "at law"

Insert: ", a paralegal or legal assistant employed by an attorney
at law,"

2. Page 7, line 25.

Following: "them;"

Strike: "or"

3. Page 8, line 2.

Following: "37-60-101(10)"

Insert: "; or (9) an internal investigator or auditor, while
making an investigation incidental to the business of the agency
or company by which he is singularly employed"

4. Page 13, line 4.

Following: "37-60-105-and"

Insert: "37-60-105 and"

CHAPTER 50

BOARD OF PRIVATE SECURITY PATROLMEN AND INVESTIGATORS

NOTE: Rules 8.50.401 through 8.50.422 under Sub-Chapter 4 have been repealed because of major changes in the statutes. New rules under sub-chapter 4 start at 8.50.423.

Sub-Chapter 1

Organizational Rule

Rule 8.50.101 Organization

Sub-Chapter 2

Procedural Rules

Rule 8.50.201 Procedural Rules

8.50.202 Public Participation

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- Rule 8.50.501 Firearms Safety and Proficiency Test
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- Rule 8.50.801 Code of Ethics for a Private Investigator
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Sub-Chapter 1

Organization Rule

8.50.101 ORGANIZATION (1) The board of private security patrolmen and investigators hereby adopts and incorporates the organizational rules of the department of commerce as listed in Chapter 1 of this title.

Sub-Chapter 2

Procedural Rules

8.50.201 PROCEDURAL RULES (1) The board of private security patrolmen and investigators hereby adopts and incorporates the procedural rules of the department of commerce as listed in Chapter 2 of this title.

8.50.202 PUBLIC PARTICIPATION (1) The board of private security patrolmen and investigators hereby adopts and incorporates the public participation rules of the department of commerce as set out in Chapter 2 of this title.

Sub-Chapter 3 reserved.

Sub-Chapter 4

Substantive Rules

Rules 8.50.401 through 8.50.422 were repealed when new law was passed and replaced with the remainder of the rules.

8.50.423 DEFINITIONS (1) "Casual employment" means employment which comes about fortuitously and is for no fixed duration of time. An engagement or employment is not "casual" where a person is employed to do a particular service or class of service recurring somewhat regularly, or with a fair expectation of continuance for a more or less extended sequence or period of time, such as every Saturday night, a week, or a month.

This definition does not apply to peace officers or reserve officers performing security guard functions for another governmental agency, or to security of in-custody inmates held elsewhere than at a custodial institution or jail or when private security companies are unwilling or unavailable to provide the service.

All other exceptions under this "casual employment" rule shall be determined by the board based upon the facts presented.

(2) "Dishonorable discharge" means any military discharge which specifically states dishonorable discharge.

(3) "Experience"; the term "year" shall mean 12 average work months (including leaves for vacation with pay) during which the individual was engaged in full time employment. Full time employment is considered to be employment for compensation when the work schedule constitutes at least 1800 hours annually or more. Self employment must be verified by someone that knows of your experience and self employment condition.

(4) For purposes of 37-60-321 (4), MCA, any crime involving moral turpitude means generally anything done contrary to justice, honesty, modesty, or good morals, including acts of baseness, vileness or depravity in the private or social duties which a man owes to his fellow man and to society in general. Such acts include, but are not limited to: assault or evidence of assaultive behavior; assault and battery, larceny or embezzlement, shoplifting, crimes involving fraud or misrepresentation; obscenity; public indecency; any firearm violation; sexual offenses; resisting an officer or legal process; vandalism; aiding in an escape; chronic alcoholism, alcohol addiction, a third conviction of driving under the influence over any five-year period and drug addiction.

(5) For purposes of exemption from licensure under Title 37, Chapter 60, MCA, "insurance adjuster" refers to any person, employed by an insurance company, who is licensed by the state of Montana as an insurance adjuster, who shall be exclusively under the control and supervision of his employer..subject to a master-servant relationship and not as an independent contractor and performs no surveillance activities.

(6) "Unprofessional conduct" means the failure to conform to and abide by all the standards, rules and regulations set forth in Title 37, Chapter 60, Montana Codes Annotated and Title 8, Chapter 50, Administrative Rules of Montana, which regulates the security patrolmen and private investigator professions in the state of Montana.

8.50.424 TEMPORARY EMPLOYMENT WITHOUT REGISTRATION OR IDENTIFICATION CARD The board may authorize a licensee to employ temporarily without first obtaining a registration card or an identification card under the following conditions:

(1) The licensee is employing the person under an apprenticeship or training program.

(2) This provides the licensee an opportunity to evaluate the person's performance to determine if the person can adequately perform the duties assigned.

(3) No one person may be temporarily employed on a fragmented work schedule for more than 90 days total in any one calendar year.

(4) The licensee must notify the board within 5 days of employing a person, for the 90 consecutive calendar day period

and must notify the board on a quarterly basis those persons employed on a fragmented schedule.

(5) Temporary employment will not be for more than 90 consecutive calendar days.

(6) At the end of this period of time the licensee must either terminate the person or have the person make application for either a registration or identification card.

(7) The licensee will notify the board within 5 days of the termination of those persons employed for the 90 consecutive calendar day period.

(8) No attempt shall be made to utilize this rule to circumvent any portion of this act.

8.50.425 RESIDENT MANAGER AND QUALIFYING AGENTS

(1) Every qualifying agent and resident manager shall satisfy all of the appropriate licensing requirements of section 37-60-303, MCA, and the rules promulgated by the board as for those of an individual.

8.50.426 RULES FOR BRANCH OFFICE (1) Branch offices of any licensee, except a proprietary security organization, shall be prohibited except upon application to the board indicating the licensee, location and resident manager/qualifying agent of such branch office.

8.50.427 REQUIRED INFORMATION FOR APPLICATION (1) The board shall conduct or have conducted such investigation on each applicant as it deems necessary to protect the public interest before granting any license. The board shall seek information from law enforcement officials and other interested and informed persons to determine the character, competence and integrity of the applicant before approval for examination.

(2) Each applicant shall provide his or her social security number and answer questions concerning military service if applicable.

(3) Applicant must list 5 references (not related by blood or marriage) and 2 of the 5 shall be former employers or individuals or firms with which he/she had a working contractual agreement if self-employed, or has knowledge of the agreement or working relationship.

(4) No person convicted of a felony in this state or elsewhere shall be eligible for a license while under a federal or state jurisdiction or for 5 years thereafter and then only with specific approval of the board.

(5) An individual who may desire licensure in more than one licensure category must pass an exam in each licensure category when required.

(6) Each person who applies for an original license shall supply with the application in addition to other pertinent information the board may require; 2 full face,

head, and shoulder photographs of a size that may be cut to 1 1/2 inches by 1 1/2 inches and still retain the full face, head, and shoulders in the photo. Name of applicant should be typed or printed on the back side of the photo.

8.50.428 EXPERIENCE REQUIREMENTS (1) Experience requirements for contract security company and proprietary security organization shall be as follows:

- (a) two years full time experience
 - (i) as an employee or employer in the field to be licensed; or
 - (ii) as a sworn member of any federal investigative agency or as a sworn member of the military police or as a sworn member of any state, county, city investigative or law enforcement group or police department; or
 - (iii) as a supervisor or administrator in industrial or governmental security; or
- (b) professionally related and relevant education or training in the field to be licensed as the board may determine to be equivalent to the foregoing experience requirements. All education and training must be verified and supplied with the application, including transcripts, diplomas, seminar certificates, course completion or other supporting evidence;
- (c) six months of experience requirement may be met by successful completion of the basic course of the Montana Law Enforcement Academy and proper verification.
- (2) Applicants may use a combination of experience, education and training to meet the experience requirement, but education and training may not exceed 1/2 the experience required.
- (3) Experience as a licensed insurance adjuster may be counted towards the 3-year experience requirements as a private investigator.

8.50.429 WRITTEN EXAMINATION (1) All applicants must successfully pass a written examination in their area of licensure with a score of 70% or more.

- (2) Examination shall consist of questions in the following areas, but shall not be limited to those areas:
 - (a) private investigator - legal rights and limitations on powers of private investigators, areas of investigation, private investigator law and rules, sources of information, service of legal papers, report writing, interrogation and investigative procedures, contracts, and recovery and disposal of property.
 - (b) armed private investigator, armed private security guard, contract security company, private investigator, private security guard, proprietary security organization, private investigator law and rules, principles or management and supervision, report writing, legal procedures,

electronics, applicable federal law and rules, and other related material in the licensure area.

(3) Applicants for examination must deposit with the examination proctor, all books, notebooks or other papers before starting to write the examination. No applicant is allowed to take with them any papers from the room in which the examination is administered.

(4) All applicants for examination must have the notice of examination for the department with the exam identification number before they will be admitted to the examination.

(5) An applicant may retake that section of the examination he/she has failed upon payment of another examination fee. In the event an applicant shall fail his/her second examination, he/she shall not be eligible for another examination until such time as he/she has furnished documentation of additional education, training or experience in law enforcement or related activities.

(a) In no instance will he/she be eligible for a third exam for a period of six months.

(6) Examinations will be held in Helena daily. Special examinations may be made available by prior arrangements with the department.

8.50.430 IDENTIFICATION/REGISTRATION POCKET CARD

(1) Only one identification/registration card shall be issued for each licensee.. The holder of an identification/registration card shall be responsible for the maintenance, custody and control of the identification/registration card, and shall neither let, loan, sell nor otherwise permit unauthorized persons or employees use it. If an identification/registration card shall be altered in any way, it shall become invalid.

(2) Each photograph (1 1/2" x 1 1/2") submitted shall fairly and accurately represent the appearance of the applicant. If the department determines that its file copy does not bear substantial resemblance to the applicant, it may request a new photograph.

8.50.431 INSURANCE REQUIREMENTS (1) All licensees regulated by Title 37, Chapter 60, MCA, except private investigators, shall file with the board, a certificate of insurance evidencing a comprehensive general liability coverage for both licensees and employees for bodily injury, and property damage; the broad form comprehensive general liability endorsement which includes the following: personal injury and property damage with endorsement for assault and battery and personal injury, including false arrest, false imprisonment, malicious prosecution, invasion of privacy, wrongful eviction or wrongful entry, mental anguish, defamation and discrimination. The minimum amount of coverage of \$300,000 for bodily or personal injury and \$100,000 for

property damage. Licensees should also file endorsements for the loss, destruction or damage to property in their care, custody and control and for losses from errors, omissions or acts of the licensees or their employees.

(2) All persons who function solely as private investigators must carry coverage for omission and errors, destruction, damage or loss of property entrusted to their custody, care and control, as well as coverage for defamation, malicious prosecution and invasion of privacy.

(3) All licensees must be insured by a carrier licensed in the state in which the insurance has been purchased or in this state.

(4) Each licensee shall sign a release allowing their insurance carrier to inform the board in the event coverage is cancelled or allowed to lapse.

8.50.432 REGULATIONS OF UNIFORM (1) No individual shall, while performing any of the duties regulated by Title 37, Chapter 60, MCA, have or utilize any uniform, vehicle, or equipment displaying the words, "police", "law enforcement officer", or the 8-1380 6/30/84 ADMINISTRATIVE equivalent thereof, or have any patch, emblem, sign marking, accessory or insignia that may indicate that such uniform, vehicle, or equipment is the property of a public law enforcement agency or of the state of Montana or any of its political subdivisions.

(2) Any person, while performing any of the duties regulated by Title 37, Chapter 60, MCA, who is required to wear a uniform must have the uniform approved by the board. All uniforms shall, on the outermost garment except for rainwear or foul weather clothing, have: clearly identified the company, the individual's name, and the occupational category.

8.50.433 LICENSE RENEWAL (1) Each license expires on December 1st following date of issue and to remain current must be renewed on or before each December 1st.

(2) Each licensee will be notified by mail at his last known address of the current renewal fee and furnished with an application for renewal prior to expiration of license.

(3) Each person who applies for renewal of a license shall submit one recent photograph with the application for renewal which will be used for the current identification card. It must be of a size that can be cut to 1 1/2 inch by 1 1/2 inch and still retain full face, head and shoulders in the photo.

(4) An expired license may be renewed within 90 days of its expiration date with the payment of the renewal fee and late fee. If more than 90 days have passed since any license has expired, a new application must be made, the appropriate

examination taken and passed with appropriate fees paid, before any new license will be issued.

8.50.434 RULES FOR RECORD KEEPING (1) Each licensee shall maintain such employee records as are normally kept in the course of usual business practice.

8.50.435 APPLICANT FINGERPRINT CHECK (1) The licensee will submit the application for each employee to the department and provide 2 classifiable sets of their fingerprints. The department will provide the licensee with information as to the applicants employability. Applications shall contain such information as required to process the application.

8.50.436 TERMINATION OF BUSINESS (1) A licensee who terminates his business shall within 5 days mail or deliver his license and identification/registration card to the department. If the licensee opens another business or goes to work for someone before the license or renewal expires, the department may return the license and identification/registration card if the request is in compliance with the law and rules.

8.50.437 FEE SCHEDULE

(1) License application fees	
(a) Contract security company	\$75.00
(b) Proprietary security organization	75.00
(c) Private investigator employer	75.00
(d) Qualifying agents and resident managers	75.00
(e) License renewals	50.00
(f) Duplicate licenses	10.00
(2) Employee registration application fees	
(a) Armed contract security employee	75.00
(b) Armed proprietary security employee	75.00
(c) Armed private investigator employee	75.00
(d) Renewals	50.00
(3) Employee Identification Application Fees	
(a) Unarmed contract security employee	25.00
(b) Unarmed proprietary security employee	25.00
(c) Unarmed private investigator employee	50.00
(d) Renewals for unarmed contract and proprietary security employee	10.00
(e) Renewals for unarmed private investigator employee	25.00
(4) Miscellaneous fees	
(a) Re-exams	15.00
(b) Late renewals	5.00
(c) Branch office application	25.00

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(b) Armed proprietary security employee	75.00
(c) Armed private investigator employee	75.00
(d) Renewals	50.00
(3) Employee Identification Application Fees	
(a) Unarmed contract security employee	25.00
(b) Unarmed proprietary security employee	25.00
(c) Unarmed private investigator employee	50.00
(d) Renewals for unarmed contract and proprietary security employee	10.00
(e) Renewals for unarmed private investigator employee	25.00
(4) Miscellaneous fees	
(a) Re-exams	15.00
(b) Late renewals	5.00
(c) Branch office application	25.00

Sub-Chapter 5

Minimum Curriculum and Standards for the Certification of
a Firearms Training Program and for the Certification of
Firearms Instructors8.50.501 FIREARMS SAFETY AND PROFICIENCY TEST - MINIMUM REQUIREMENTS (1) The test shall be comprised of two parts:

(a) A written test included, but not limited to, gun safety, weapon handling, mechanical operations, shoot-don't shoot situations, liability, federal and state statutes regarding limitations (total of ten hours minimum instruction)

(b) A combat shooting course using a firearm authorized by the board.

(2) Satisfactory completion of the firearms safety and proficiency test shall be a score of not less than 70 percent on each of the two parts and the demonstration of reasonable competence in firearms skills as determined by a certified instructor.

8.50.502 REGISTRATION REQUIRED ANNUALLY (1) Every private security guard and private investigator must renew their firearm registration each year. Re-registration will be based upon satisfactory completion of a certified combat shooting course at least once during each year.

8.50.503 CRITERIA FOR A CERTIFIED SHOOTING COURSE

(1) The certified course shall be the Tactical Revolver Course:

(a) 25 yard line - time: 1 minute, 15 seconds, (18 rounds) On command, shooter loads 6 rounds and holsters weapon. On whistle, shooter fires 18 rounds in the following sequence: Kneeling strong hand barricade (6 rounds), over top of barricade (6 rounds), kneeling weak hand barricade (6 rounds)

(b) 15 yard line - time 30 seconds - (12 rounds) On command, shooter loads 6 rounds and holsters weapon. Starting at the 25 yard line, on whistle shooter moves rapidly to 15 yard line, draws and fires 12 rounds, point shoulder position.

(c) 10 yard line - time: 25 seconds (10 rounds) At 10 yard line, shooter loads 6 rounds and holsters weapon, on command. On whistle shooter moves rapidly to 10 yard line, draws and fires 6 rounds, reloads and fires 4 additional rounds.

(d) 5 yard line - Time: 20 seconds (10 rounds) At 10 yard line, shooter loads 6 rounds and holsters weapon, on command. On whistle, shooter moves rapidly to 5 yard line, draws and fires 6 rounds, reloads and fires 4 additional rounds.

(e) Firearm to be used for qualification will be the firearm carried most often on duty.

(f) Scoring: The target to be used is the K-5. "K" values are computed (250 points possible) and multiplied by .4 for percentage score. Minimum qualification score is 70%.

(2) Stress will be induced by the use of time and physical activities. If the range facilities available are equipped to provide night time firing and/or low light conditions, the instruction and qualification course should include these conditions.

8.50.504 REQUIREMENTS FOR FIREARMS INSTRUCTORS'

CERTIFICATION (1) To become a certified firearms instructor, an individual must attend and pass a certified firearms instructors course approved by the board.

(2) Firearms instructors must apply for instructor certification every two years by the anniversary date of his original certification.

(3) Each instructor shall be required to conduct at least one certified combat shooting course annually.

(4) Institutions, firms, or persons wishing approval of the board to offer a course in the carrying and usage of firearms must make application to the board and include the following information:

(a) a detailed outline of course to be provided;

(b) the name of the instructor and a documentation of their qualifications, and;

(c) places and dates where the course will be offered, length of the course, and an estimate of the maximum number of persons who can be accommodated and a description of facility to be used.

(2) Such information must be supplied to the board at least 15 days before the course is to be given. No student will be enrolled in a course unless they have made application for registration to the board.

(3) Approval of a course may be withdrawn by the board in writing.

8.50.505 EMPLOYERS' RESPONSIBILITY (1) All employers of private security guards and investigators are responsible for providing or obtaining the necessary training to enable the individual to meet the standards required by these rules and regulations.

8.50.506 TYPE OF SIDEARM (1) Solid frame revolver or pistols capable of single and double-action fire. Caliber .38 357 (only 38 special ammunition will be used), 380 and 9 millimeter automatic with barrel length from two to six inches, revolvers with five or six-round cylinder, all-steel construction, (except model 39 Smith) fixed or adjustable sights will be approved by the board.

Sub-Chapters 6 and 7 reserved.

Sub-Chapter 8

Professional Conduct

8.50.801 CODE OF ETHICS FOR A PRIVATE INVESTIGATOR

- (1) It is the responsibility of each private investigator to:
- (a) strive to keep informed of developments and techniques affecting the profession;
 - (b) conduct themselves in a business-like manner befitting a professional;
 - (c) keep informed of laws and ordinances affecting the profession;
 - (d) make no claims to qualifications the licensee does not possess;
 - (e) be loyal to the client and divulge the information obtained only to the client or his representative;
 - (f) will not become involved in investigations on behalf of a client with intent to break the law or to use the information unethically;
 - (g) will not provide clients with advice or counsel of a discipline in which the licensee is not qualified;
 - (h) will not use the position of trust for unethical gains;
 - (i) will not accept investigations which conflict with previous or current investigations;
 - (j) be honest, accurate, factual, and complete in reporting;
 - (k) will not represent themselves as a member of law enforcement;
 - (l) will charge the client according to mutual agreement;
 - (m) honor verbal agreements as if it were written;
 - (n) avoid engaging in the unauthorized practice of law;
 - (o) obey the laws of the United States, the state of Montana or any of its political subdivisions;
 - (p) avoid intermingling client's business funds with the licensee's personal funds;
 - (q) avoid engaging in deceptive double billings.
- (2) Any violation of the above shall constitute unprofessional conduct.

8.50.802 CODE OF ETHICS FOR PRIVATE SECURITY LICENSEES

- (1) It is the responsibility of managers of private security functions and the licensed employees to:
- (a) recognize that the principal responsibilities are, in the service of their organizations and clients, to protect life and property as well as to prevent and reduce crime against their business, industry, or other organizations and institutions; and in the public interest, to uphold the law and to respect the constitutional right of all persons.

(b) be guided by a sense of integrity, honor, justice and morality in the conduct of business; in all personnel matters; in relationships with government agencies, clients, and employers; and in responsibilities to the general public.

(c) strive faithfully to render security services of the highest quality and to work continuously to improve their knowledge and skills and thereby improve the overall effectiveness of private security.

(d) uphold the trust of their employers, clients, and the public by performing their functions within the law, not ordering or condoning violations of law, and ensuring that their security personnel conduct their assigned duties lawfully and with proper regard for the rights of others.

(e) respect the reputation and practice of others in private security but to expose to the proper authorities any conduct that is unethical or unlawful.

(f) cooperate with recognized and responsible law enforcement and other criminal justice agencies; to comply with security licensing and registration laws and other statutory requirements that pertain to their business.

(g) respect and protect the confidential and privileged information of employers and clients beyond the term of their employment, except where their interests are contrary to law.

(2) Any violation of the above shall constitute unprofessional conduct.

8.50.803 CODE OF ETHICS FOR PRIVATE SECURITY EMPLOYEES

(1) Private security employees shall:

(a) accept the responsibilities and fulfill the obligations of their role: protecting life and property; preventing and reducing crimes against their employer's business, or other organizations and institutions to which they are assigned; upholding the law; and respecting the constitutional rights of all persons.

(b) conduct themselves with honesty and integrity and to adhere to the highest moral principles in the performance of their security duties.

(c) be faithful, diligent, and dependable in discharging their duties.

(d) respect and protect the confidential and privileged information of their employer or client beyond the terms of their employment, except where their interests are contrary to law.

(e) cooperate with all recognized and responsible law enforcement and government agencies in matters within their jurisdiction.

(f) accept no compensation, commission, gratuity, or other advantage without the knowledge and consent of their employer.

(2) Any violation of the above ethical code shall constitute unprofessional conduct.

8.50.804 POWERS OF ARREST (1) No licensee or employee shall have greater power of arrest than the average citizen in accordance with section 46-6-502, MCA, which reads as follows: "A private person may arrest another when:

(a) he believes on reasonable grounds that an offense is being committed or attempted in his presence;

(b) a felony has in fact been committed and he believes on reasonable grounds that the person arrested has committed it; or

(c) he is a merchant, as defined in 30-11-301, MCA, and has probable cause to believe the other is shoplifting in the merchant's store."

(2) If a merchant has employed or contracted for the services of a proprietary security guard or a contracted security guard, all arrest authority shall be subject to the restrictions contained in 46-6-503, MCA.

(3) In those cases where arrest power has been granted by proper authorities, this rule shall not be applicable.

(4) Abuse of the powers of arrest will constitute unprofessional conduct.

Sub-Chapter 9

Complaint Procedures

8.50.901 GENERAL PURPOSES (1) The purpose in outlining the following complaint procedure is so that any and all complaints received by the board of private security patrolmen and investigators, hereinafter referred to as the board, shall be uniform. Secondly, it is the desire of the board that all complaints be handled in a manner that will assure equitable consideration for both the complainant and the subject of the complaint.

8.50.902 INITIAL PROCEDURES (1) All complaints shall be signed and in writing, and under no circumstances will the board give consideration to any complaints received from anonymous sources or telephonically from persons who are unwilling to reduce their complaint to writing.

(2) The board will receive complaints made in person against any licensee or registrant if the complaint is made by a person appearing at a regularly scheduled board meeting. The board will hear this person either in open or closed session, at its discretion and as the facts of the case may dictate. Even though a complainant may appear personally and lodge a complaint, the board will urge the complainant to reduce his grievance to writing and sign it. Should the complainant be unwilling to do so, the board will then reduce the complaint to writing and require that the person making the complaint sign it.

(3) Regardless of the manner in which a complaint is received, once the complaint has been reduced to writing, the administrative assistant to the board will immediately forward a copy of the signed complaint to the subject with a request and recommendation that an answer to the complaint be made in writing to the board.

(4) Upon receipt of this answer, a copy of the answer so received shall be immediately forwarded to the complainant, and if it should be deemed necessary by the administrative assistant to cause investigation into the matter, the administrative assistant, after conferring with the chairman of the board, will appoint a qualified investigator to look into the merits of the complaint and report their findings to the board.

8.50.903 ACTION BY THE BOARD (1) Upon completion of the above steps, if the complaint received is not of a serious nature, a member of the board designated by the chairman shall contact the complainant and the complaine and see if the matter can be amicably settled between them by stipulation or agreement.

(2) If the matter cannot be so settled, the board is then bound by the Montana administrative procedures act and will instruct the administrative assistant to so advise the complainant and the complaine in writing, enclosing with the letter a copy of sections 2-4-601 through 2-4-623 of the Montana administrative procedures act.

(3) Thereafter, the complaint shall be handled strictly in accordance with the Montana administrative procedures act.

DISPOSITION OF HOUSE JOINT RESOLUTION 13: Senator Fuller felt the resolution would not accomplish anything and was not necessary. He was sympathetic to what was trying to be done but felt this would not accomplish any results. He then MOVED TO TABLE HOUSE JOINT RESOLUTION 13. Senator Neuman noted he would not like this to be a signal that we are moving in the other direction either. The motion carried.

DISPOSITION OF HOUSE JOINT RESOLUTION 39: Senator Fuller MOVED TO TABLE HOUSE JOINT RESOLUTION 39. The motion carried.

DISPOSITION OF HOUSE BILL 127: This bill had been delayed in committee while awaiting more house bills dealing with the same subject matter were heard first. A handout was distributed with a summary. (EXHIBIT 7) Clayton Bain, Chairman of the Private Investigators was present as was Don and Fred Valiton for questions if the committee desired.

Senator Christiaens felt there were several problems with HB 895 which was the reason the bill was delayed. Clayton Bain stated they had been put in separate bills in the house and they would like to see security alarms reinserted in House Bill 127 if HB 895 does not pass. (EXHIBIT 8)

Senator Fuller then MOVED TO AMEND BACK INTO THE BILL THE LANGUAGE STRICKEN EARLIER TAKING OUT SECURITY ALARMS. This motion carried.

Senator Fuller then MOVED HOUSE BILL 127 BE CONCURRED IN AS AMENDED. The motion carried. Senator Christiaens voted "no". There followed a brief discussion of what would happen if this bill were not to pass and Clayton Bain felt there would be some concerns. A brief discussion of the type of complaints that have been received on private investigators also.

DISPOSITION OF HOUSE BILL 895: Senator Fuller MOVED TO TABLE HOUSE BILL 895. The motion carried. Senator Neuman voted "no". He felt the Department of Commerce wanted to get away from licensing and the Department of Justice did not want the responsibility either.

DISPOSITION OF HOUSE BILL 462: Senator Thayer MOVED THAT HOUSE BILL 462 BE CONCURRED IN. Senator Christiaens felt this was a good bill that would benefit the state and thought it was desirable to get the local wholesalers involved in the process of selling also. There had been an amendment proposed. (EXHIBIT 9) Senator Christiaens MOVED TO ADOPT THE AMENDMENT CONCERNING THE PROCUREMENT PROVISION FOR THE DEPARTMENT OF INSTITUTIONS. The motion carried.

Senator Christiaens MOVED THAT HOUSE BILL 462 BE CONCURRED IN AS AMENDED. The motion carried with Senator Weeding, Senator Neuman, and Senator Goodover voting "no".

ROLL CALL

BUSINESS & INDUSTRY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3-28-

SENATE
SENT

#

NAME	PRESENT	ABSENT	EXCUSED
Chairman Halligan	X		
V-chrm. Christiaens	X		
Senator Boylan	X		
Senator Fuller	X		
Senator Gage	X		
Senator Goodover	X		
Senator Kolstad	X		
Senator Neuman	X		
Senator Thayer	X		
Senator Williams	X		
Senator Weeding	X		

Each day attach to minutes.

PROPOSED AMENDMENTS TO HOUSE BILL 127

Third Reading, Blue Copy

5.
1. Page 7, line 10.
Following: "at law"
Insert: ", a paralegal or legal assistant employed by an attorney at law,"
6.
2. Page 7, line 25.
Following: "them;"
Strike: "or"
7.
3. Page 8, line 2.
Following: "37-60-101(10)"
Insert: "; or (9) an internal investigator or auditor, while making an investigation incidental to the business of the agency or company by which he is singularly employed" ~~Following~~
4.
4. Page 13, line 4.
Following: "37-60-105-and"
Insert: "37-60-105 and"

7. Title, line 14.

Following: "MCH"

Strike: "; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE"

89. Page 17, lines 5 and 6.
Strike: Section 10 in its entirety

STANDING COMMITTEE REPORT

Page 1 of 2

MARCH 28 1965

MR. PRESIDENT

BUSINESS & INDUSTRY

We, your committee on.....

having had under consideration..... HOUSE BILL 127
No.....

third reading copy (blue)
color

REVISE LAW ON PRIVATE INVESTIGATORS AND SECURITY PATROLMEN (Williams)

Respectfully report as follows: That..... HOUSE BILL 127
No.....

be amended as follows:

1. Title, line 7.

Following: "SYSTEMS;"

Insert: "PROVIDING COVERAGE FOR SECURITY ALARM SYSTEMS;"

2. Title, line 14.

Following: "MCA"

Strike: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 3, line 3.

Following: line 2

Insert: "installs or maintains a security alarm system,"

4. Page 5, line 22.

Following: line 21

Insert: "(17) 'Security alarm system' means an assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a 110-volt AC line, designed to detect or signal or to both detect and signal unauthorized intrusion, movement, or criminal acts at a protected premises, to which signals police, private security guards, or alarm response runners are expected to respond. Fire alarm systems and alarm systems that monitor temperature, humidity, or any other atmospheric condition not directly related to the detection of an unauthorized intrusion or criminal act at a premises are not included within the meaning of this definition."

Re-number: subsequent subsections

(continued on page 2)

Chairman.

MARCH 28

1985

5. Page 7, line 10.

Following: "at law"

Insert: ", a paralegal or legal assistant employed by an attorney at law,"

6. Page 7, line 25.

Following: "them;"

Strike: "or"

7. Page 8, line 2.

Following: "37-60-101(10)"

Insert: "; or (9) an internal investigator or auditor, while making an investigation incidental to the business of the agency or company by which he is singularly employed"

8. Page 13, line 4.

Following: "37-60-105-and"

Insert: "37-60-105 and"

9. Page 17, lines 5 and 6.

Strike: section 10 in its entirety

AND AS AMENDED
BE CONCURRED IN

Sen. Mike Halligan, Chairman